

**October 30, 2017**  
**Monday**

12:00 PM - 1:00 PM

Oakridge Meeting -- RA's Boardroom

1:30 PM - 2:30 PM

RCRD Staff Meeting -- 10B (10T65)  
Meetings that fall on a holiday will be rescheduled for the next business day.

**October 31, 2017**  
**Tuesday**

9:00 AM - 10:00 AM

Briefing - Louisville Gas & Electric -- RA's Conference Room



RA Briefing  
Request (EPA).d...

10:45 AM - 11:45 AM

FW: RTOC Executive Session with R4 Sr. Leadership -- Atlanta/Augusta Rooms; 3rd Floor



Fall RTOC  
Meeting Draft A...

-----Original Appointment-----  
**From:** Berrios, Lisa  
**Sent:** Tuesday, October 17, 2017 3:54 PM  
**To:** Berrios, Lisa; Banister, Beverly; Kemker, Carol; Walker, Mary; Zapata, Cesar; Gettle, Jeaneanne; Mundrick, Doug; Farmer, Alan; Monell, Carol; Hill, Franklin; Chaffins, Randall; Rubini, Suzanne; Heard, Anne; Ghosh, Mita; Glenn, Trey; Lincoln, Larry  
**Cc:** Eubanks, Kristy; Jones-Johnson, Shea; Jenkins, Brandi  
**Subject:** RTOC Executive Session with R4 Sr. Leadership  
**When:** Tuesday, October 31, 2017 10:45 AM-11:45 AM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Atlanta/Augusta Rooms; 3rd Floor

Draft agenda is also attached.

Thanks

Ashbee, Blake

**October 31, 2017 Continued**  
**Tuesday**

Lisa

**1:00 PM - 2:00 PM**

**Welcome - State and Air Director's Meeting -- Embassy Suites Hotel - (Centennial Olympic Park)**



image2017-10-1...

**November 1, 2017**  
**Wednesday**

**11:00 AM - 11:30 AM**

**RCRA Subtitle I MOA -- RA's Office**

**11:30 AM - 12:15 PM**

**RESTORE Council Chair -- Conference Call 404-562-9997 Code (b)(6)**

**1:00 PM - 2:00 PM**

**External Relations Activities -- RA's Boardroom**

**Purpose:** Information discussion for Trey to understand Region 4's External Relations activities (i.e., Communities, Elected Officials, and Other State Holder Groups) I. The Required Attendees are integral to the discussion and the Optional Attendees are invited to listen.

**Required Attendees:**

Allison

Larry

Denise

Anita Davis

**Optional:**

Beverly Banister

Carol Kemker

**November 1, 2017 Continued**  
**Wednesday**

Alan Farmer  
Carol Monell  
Mary Walker  
Cesar Zapata  
Gregg Worley  
Chris Thomas  
Michael Norman

If you have any questions, please contact Brandi @ 2-9124.

**2:00 PM - 2:45 PM**

**CALENDAR/BRIEFINGS MEETING -- RA's Boardroom**

**3:00 PM - 3:30 PM**

**Meet w/ Allison W. - RE: Local Government Advisory Committee -- RA's Office**

**3:35 PM - 4:05 PM**

**SD-1 Discussion -- RA's Small Conference Room**

**November 2, 2017**  
**Thursday**

**1:00 PM - 2:00 PM**

**Briefing - Louisville Gas & Electric -- RA's Office**

**3:00 PM - 3:45 PM**

**OCIR Weekly Regional Call -- 3428-WJCN**  
**Call in #: 1-866-299-3188**

**Passcode: (b)(6)**

**Region 4 Grants/Planning Meeting**  
**Embassy Suites Centennial Olympic Park**  
**Atlanta, Georgia**  
**October 31, 2017 – November 2, 2017**  
**AGENDA (Draft 9/16/17)**

*(The SESARM Board Meeting convenes at 8:00 in Salons IV and V. See separate agenda.)*  
*(The Small Group Meeting with EPA convenes at 9:00 in Salons IV and V. See separate agenda.)*

**Tuesday, October 31, 2017 General Session – Legacy Ballrooms D, E, F**

<b>12:00 noon</b>	<b>Registration begins</b>	
<b>1:00 p.m.</b>	Welcome, Introductions, Logistics	John Hornback Metro 4/SESARM
<b>1:15 p.m.</b>	Welcome from US EPA Region 4	Trey Glenn, Regional Administrator EPA Reg 4
<b>1:30 p.m.</b>	Welcome from GA EPD	Richard Dunn, Director Georgia Environmental Protection Div
<b>1:45 p.m.</b>	Modeling /Transport – National Perspectives	Chet Wayland EPA OAQPS
<b>2:30 p.m.</b>	Monitoring – National Perspectives	Chet Wayland EPA OAQPS
<b>3:15 p.m.</b>	<b>Break</b>	
<b>3:45 p.m.</b>	Monitoring – Regional Perspectives	Laura Ackerman EPA Reg 4 SED
<b>4:45 p.m.</b>	<b>General session adjourns for the day</b>	

*(The Metro 4 Board/Membership Meeting will convene in Salon I as the general session ends.)*

**Wednesday, November 1, 2017 General Session – Legacy Ballrooms D, E, F**

<b>8:30 a.m.</b>	EPA Region 4 APTMD Updates	Beverly Banister EPA Reg 4 APTMD
<b>9:15 a.m.</b>	NAAQS and Regional Haze Standards and Implementation – National Perspectives	Anna Wood EPA OAQPS
<b>10:15 a.m.</b>	<b>Break</b>	
<b>10:45 a.m.</b>	NAAQS and Regional Haze Updates – Regional Perspectives	Scott Davis and staff EPA Reg 4 APTMD
<b>11:45 a.m.</b>	<b>Lunch</b>	
<b>1:15 p.m.</b>	Enforcement Priorities and Updates	Beverly Spagg and staff US EPA Reg 4 APTMD
<b>2:00 p.m.</b>	Grants and Funding	Carol Kemker, EPA Reg 4 APTMD

Scott Perry, EPA Reg 4 APTMD

2:45 p.m. The Future of Transportation and Implications John Hornback for  
Air Quality Planning

3:15 p.m. Break

3:45 p.m. Local/State Agency Highlights

Facilitator – John Hornback

- Hillsborough County 50 Years Jerry Campbell, Hillsborough Co
- Use of Data to Evaluate Air Programs Jerry Campbell
- 15 minute slot available TBD

4:45 p.m. General session adjourns for the day

Thursday, November 2, 2017 General Session – Legacy Ballrooms D, E, F

- 15 minute slot available TBD

11:15 a.m.	National Training Program Update Southeastern Training Plan – FY 2018	John Hornback Doug Carson, Metro 4/SESARM
11:30 a.m.	Future Workshops and Meetings Closing Remarks	John Hornback
11:45 a.m.	General session concludes	
8:30 a.m.	Honor Retiring Director(s)	John Hornback, Metro 4/SESARM Others
8:45 a.m.	The Role of Energy Efficiency in Air Quality Compliance	Nancy Siedman Regulatory Assistance Project
10:00 a.m.	Break	
10:15 a.m.	Local/State Agency Highlights	Facilitator – John Hornback
	<input type="checkbox"/> 15 minute slot available	TBD
	<input type="checkbox"/> 15 minute slot available	TBD
	<input type="checkbox"/> 15 minute slot available	TBD
	<input type="checkbox"/> 15 minute slot available	TBD

## EVENT INFORMATION SHEET

(revised as of 08/28/2017)

<b>EVENT:</b>	EPA Region 4 State and Local Air Directors' Fall Meeting, October 31-November 2, 2017, Embassy Suites Hotel (Centennial Olympic Park)
<b>WHAT IS THE DEADLINE FOR ACCEPTANCE?</b>	Prefer to confirm early, but decision to come can be made up to the time of the meeting
<b>WOULD YOU BE WILLING TO ACCEPT A SUBSTITUTE IN THE EVENT MR. GLENN IS UNAVAILABLE?</b> If so, what level of EPA representative are you looking for?	No. State/locals have requested to be able to meet the new RA if his schedule permits.
<b>INVITATION BY:</b> Also, please provide a brief description of your organization.	John Hornback, Southeast States Air Resources Management (SESARM) Executive Director on behalf of the State/local Air Directors
<b>EVENT DATE:</b>	October 31 or November 1 (depending on RA's schedule/availability)
<b>WILL MR. GLENN BE REQUIRED TO PAY A REGISTRATION FEE?</b> If yes, please provide specifics.	No, N/A
<b>TOPIC TO BE COVERED:</b>	Greeting by the new RA to the Region 4 Air Agency Directors, brief remarks and possibly a few audience questions.  <b>Note: Commissioner Dunn from the GA Environmental Protection Division has also been invited to speak.</b>
<b>TIMEFRAME:</b> When would you need Mr. Glenn to arrive and where should he report? What time would he be on the agenda?	Draft agenda has time Tuesday afternoon 10/31 or Wednesday morning 11/1, but time is completely flexible depending on Mr. Glenn's schedule/availability.
<b>LOCATION:</b> (include street address)	Embassy Suites at Centennial Olympic Park 267 Marietta Street Atlanta, GA 30303 404-223-2300
<b>INTRODUCTION BY:</b>	Beverly Banister, Director APTMD
<b>FORMAT/AGENDA</b> (Please provide an agenda for the event.)  <b>WHAT ARE YOU LOOKING FOR, i.e., SPEECH, POWERPOINT PRESENTATION, BOTH?</b>	Copy of draft agenda attached. Speech <u>  X  </u> (Specifically, Short remarks/greeting, possible questions from audience) Powerpoint <u>          </u> Panel Member <u>          </u>

<b>PLEASE PROVIDE SPECIFICS ON HOW THE SESSION WILL FLOW.</b> for example: total time allotted to Mr. Glenn, and if there will be questions afterward....Example: 30 minutes for speech; 15 minutes for Q&A.	15 to 20-minute session – Greetings/remarks from the new RA to audience of Region 4 State/local air directors; opportunity to take a few questions from audience.
<b>PLEASE DESCRIBE AUDIENCE/ATTENDEES:</b>	Fall meeting of the Region 4 State and local Air Directors and key staff (60-70 persons in attendance).
<b>PRESS/MEDIA</b> (Indicate if open or closed press; if open, please provide specifics)	Closed meeting, no press.
<b>BACKGROUND/COMMENTS:</b>	Normal Fall Meeting with R4 Air Directors', opportunity for new RA to speak with the directors. They meet every Spring and Fall.
<b>DRESS:</b>	Business casual
<b>IS THE EVENT CONSIDERED FUNDRAISER OR/SPONSORSHIP? YES OR NO. (If Yes, please explain.)</b>	No.
<b>ARE YOU A REGISTERED LOBBYIST?</b>	N/A
<b>EVENT POC (AND TELEPHONE/CELL #):</b> (Also, please include name and cell phone number of someone who will be at the event)	John Hornback 770-605-3059
Internal EPA: EPA SPEECH POC: B. Banister x9326	
EPA SUBJECT POC: B. Banister x9326	
STAFF PERSON ACCOMPANYING RA: B. Banister x9326	
<b>OTHER COMMENTS YOU WOULD LIKE TO PROVIDE:</b>	

# November 6, 2017 - November 12, 2017

November 2017						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December 2017						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

## Monday, November 6

- 10:00am - 11:00am Briefing - Labor/Employee Relations (RA's Boardroom) - Glenn, Trey
- 12:00pm - 12:30pm JFO Logistics Discussion w/Pam Swingle (RA's Boardroom) - Glenn, Trey
- 1:30pm - 2:30pm RCRD Staff Meeting (10B (10T65)) - Ricks-Sinquefield, Debra ☺
- 3:30pm - 4:00pm Meeting with Mary @ BASF (Blake's Office) - Jenkins, Brandi

## Tuesday, November 7

- 9:00am - 10:00am Briefing - Anniston PCB Site OU1/OU2 Record of Decision (RA's Conference Room) - Glenn, Trey
- 10:00am - 11:00am Briefing - Grenada (RA's Boardroom) - Glenn, Trey
- 11:00am - 12:00pm Briefing - SO2 (RA's Conference Room) - Glenn, Trey
- 1:00pm - 1:30pm PARS - Beverly Banister (RA's Office) - Glenn, Trey
- 1:30pm - 2:00pm PARS - Alan Farmer (RA's Office) - Glenn, Trey
- 2:00pm - 3:00pm Briefing - General 404 Overview (RA's Boardroom)
- 2:30pm - 3:30pm FW: PADs/Comm Directors Weekly Meeting (2530 WJC-North ; Call in number 866 299 3188 passcode (b)(6) - Hull, George

## Wednesday, November 8

- 9:00am - 9:30am ORD Meet & Greet (RA's Conference Room) - Ashbee, Blake
- 9:30am - 10:30am Opening Remarks - Veterans Day Ceremony (SNAFC - Bridge) - Glenn, Trey
- 11:00am - 11:30am Discussion: NC Local SRF Briefing (RA's Conference Room) - Glenn, Trey
- 11:00am - 11:30am FYI: Trey needs to pick up credentials from Security (9th Floor Security Office)
- 11:45am - 12:00pm FW: PFOs/PFAs (Call in 1-866-299-3188 passcode (b)(6) - Forsgren, Lee

- 3:00pm - 3:30pm Follow up on National Home Builder's
- 3:30pm - 4:00pm FYI: PARS - Franklin Hill (RA's Office) - Glenn, Trey
- 4:00pm - 4:30pm PARS - Mary Walker (RA's Office) - Glenn, Trey

## Thursday, November 9

- 10:00am - 11:00am Briefing - 404 Yazoo Call in number has been added (RA's Conference Room) - Glenn, Trey
- 11:30am - 12:30pm Testimony Q&A (RA's Small Conference Room) - Glenn, Trey
- 3:00pm - 4:00pm Meet & Greet with EPA Regional Administrator Trey Glenn (Director's Office Conference Room - 14th Floor) - Fischer, Tamara
- 3:00pm - 3:45pm OCIR Weekly Regional Call (3428-WJCN) - Richardson, RobinH ☺
- 4:00pm - 5:00pm FYI: Do not schedule - Trey will leave for the day

## Friday, November 10

- VETERAN'S DAY
- 9:00am - Peopleplus approval day ☺

## Saturday, November 11

## Sunday, November 12

## Official Meeting/Briefing Request for Trey Glenn, RA

☒ **DD/DDDD Concurrence \*\*\*You must check that your Division's Director/Deputy Director is aware that you are scheduling this meeting\*\*\***

Date of Request: 10/23/17

Requestor: Pam Scully  
Phone No.: 404-562-8935

Name of Meeting: Anniston PCB Site OU1/OU2 Record of Decision

Purpose of Meeting: To discuss recommended remedy for residential and non-residential areas around Solutia facility and along Snow Creek floodplain in the cities of Anniston and Oxford, Alabama.

Is the Meeting Date Sensitive? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Deadline Date: 11/17/17	
Meeting Date/Time Preference #1	Date: 11/6/17	Time: 3:00 PM
Meeting Date/Time Preference #2	Date: 11/7/17	Time: 9:00AM/1:00PM
Meeting Date/Time Preference #3	Date: 11/8/17	Time: 9:00AM/1:00PM

Duration of Meeting: 1 hour

**Background:** The Superfund Division has prepared a Record of Decision (ROD) for Operable Unit 1 (OU1, residential properties) and Operable Unit 2 (OU2, nonresidential properties) at the Anniston PCB Site, Anniston, Alabama. The RA requested a briefing about the ROD prior to the Division Director approval.

**Expectations from Meeting** (Please be specific: Are you looking for a decision, guidance?)  
Explain the selected remedy to the RA prior to the Superfund Division Director's approval.  
Discuss communication strategy and community engagement that will occur after approval.

No. of Participants: 13 (It is very important that the RA's office is aware of how many and whom...no surprises; i.e., we were told 2 staff members and 10 show up)	Names of Required Invitees:  Franklin E. Hill Caroline Freeman Jennifer Guillard Derek Matory Pam Scully Rudy Tanasijevich David Clay Suzanne Rubini Glenn Adams Stephanie Y Brown	Optional Invitees:  Kevin Koporec Noman Ahsanuzzaman Sharon Thoms
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Requested Meeting Location: RA's Conference Room

Will there be any type of computer presentation? Yes ☒ No ☐

**Briefing Sheet - RA**  
**Buncombe & Mecklenburg County CAA SRF Round 3 Draft Reports**  
**November 2017**

**Summary – Buncombe County**

Element	Finding	Description	Rating
Data	1-1	Data Accuracy and Timeliness	Area for Improvement
Inspections	2-1	Inspection Coverage and Reports	Meets or Exceeds Expectations
Violations	3-1	Identification of Violations	Meets or Exceeds Expectations
Enforcement	4-1	Enforcement Promotes Compliance	Meets or Exceeds Expectations
Penalties	5-1	Penalty Assessment and Collection	Area for Attention

**Recommendations – Buncombe County**

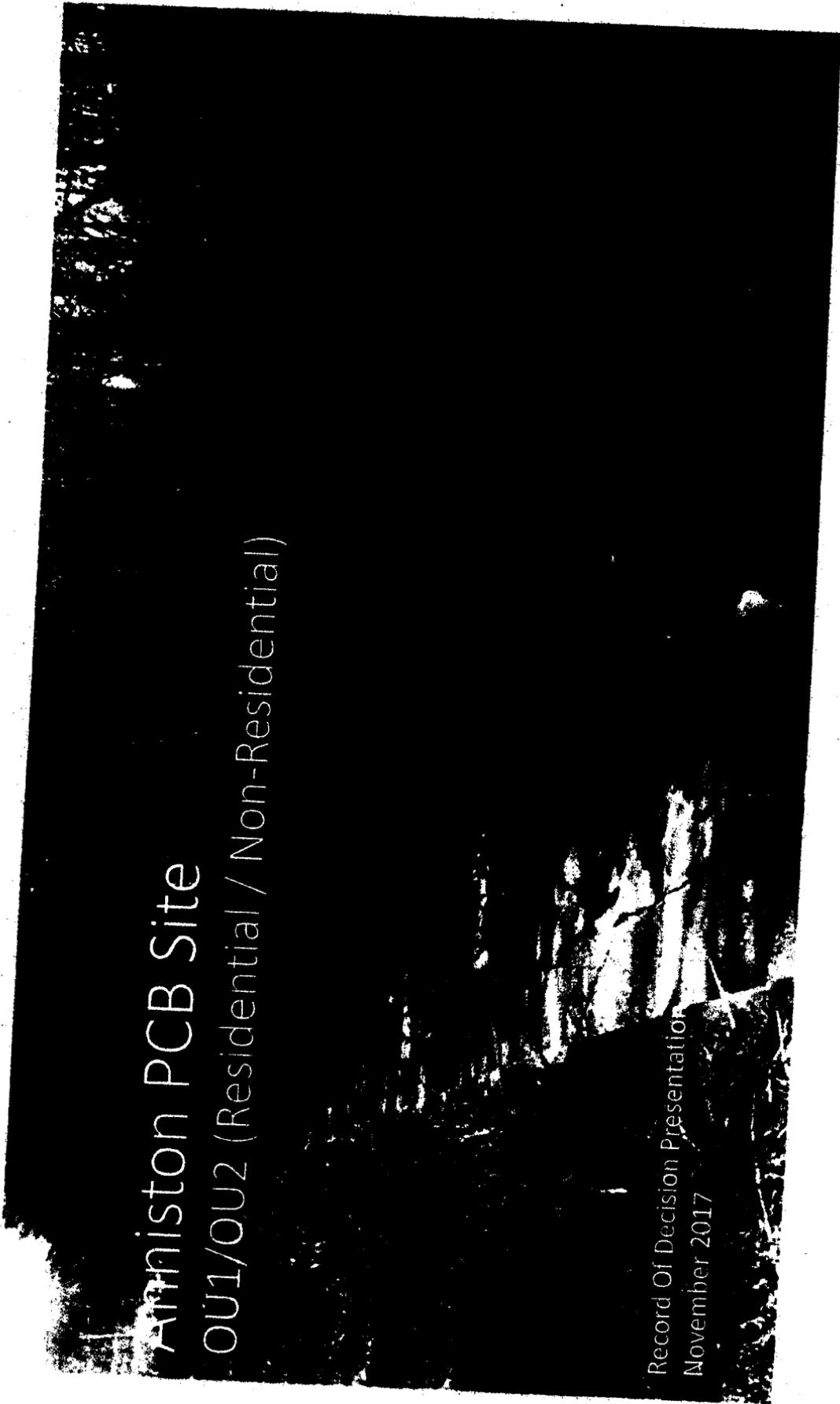
Element	Finding	Issue	Recommendation
1	1-1	The timeliness and accuracy of minimum data requirement (MDR) data reported into ICIS-Air needs improvement. Much of the data was not entered within the required timeframes, and discrepancies between the files and ICIS-Air were identified in about 31% of the files reviewed.	By March 31, 2018, WNCRAQA should take steps to ensure that all MDRs are entered timely and accurately into ICIS-Air. If by March 31, 2019, EPA's annual data metric analysis and other periodic reviews confirm that WNCRAQA's efforts appear to be adequate to meet the national goal, the recommendation will be considered complete.

### **Summary – Mecklenburg County**

Element	Finding	Description	Rating
Data	1-1	Data Accuracy and Timeliness	Area for Attention
Inspections	2-1	Inspection Coverage and Reports	Meets or Exceeds Expectations
Violations	3-1	Identification of Violations	Meets or Exceeds Expectations
Enforcement	4-1	Enforcement Promotes Compliance	Meets or Exceeds Expectations
Penalties	5-1	Penalty Assessment and Collection	Area for Improvement

### **Recommendations – Mecklenburg County**

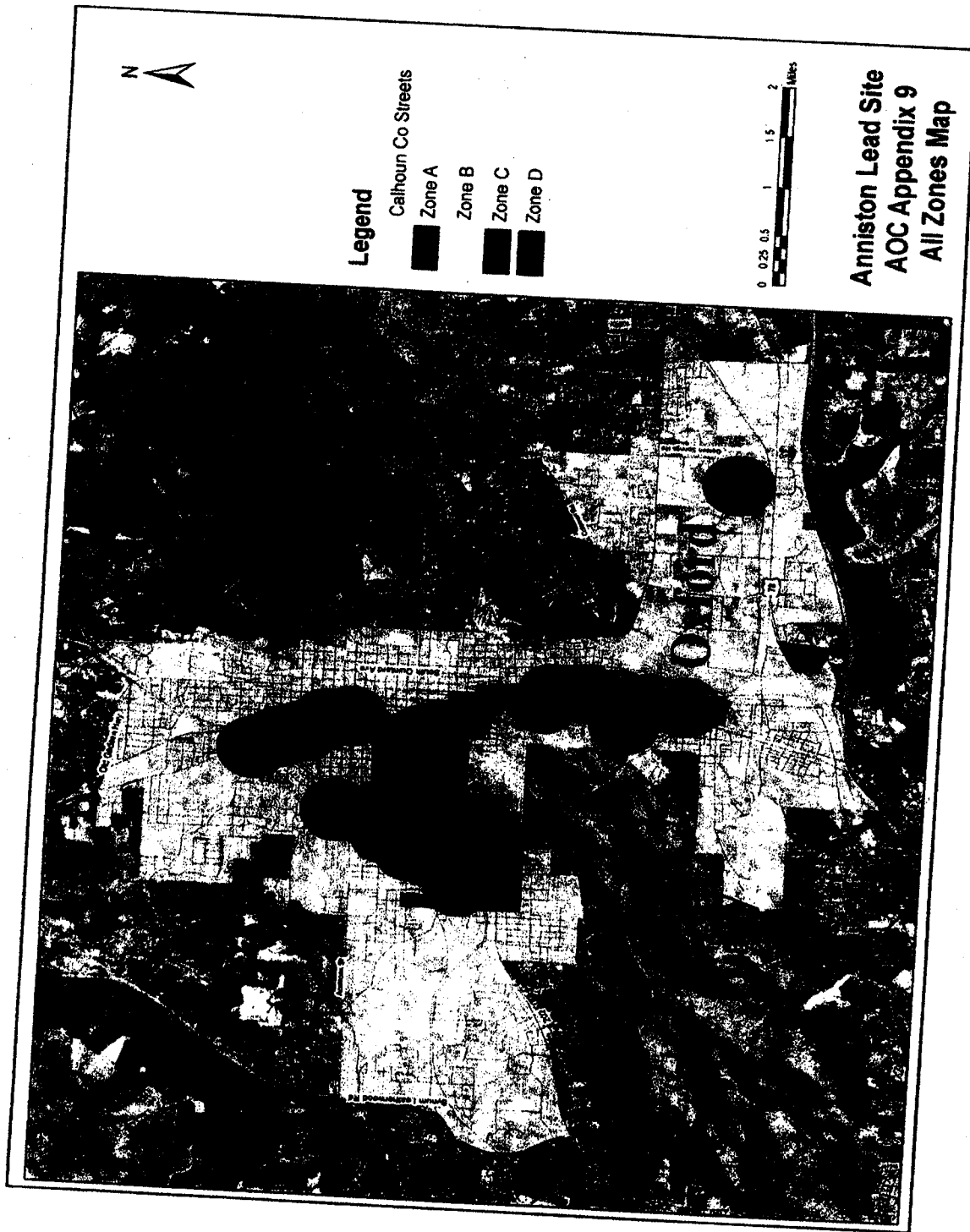
Element	Finding	Issue	Recommendation
5	5-1	MCAQ considered gravity when calculating penalties, but no rationale was provided for not including economic benefit in the penalty.	By March 31, 2018, MCAQ should submit revised procedures which ensure that the consideration of economic benefit is documented for all penalty calculations. In particular, MCAQ should document a more detailed rationale when no economic benefit is assessed. If by March 31, 2019, EPA determines that these procedures and their implementation adequately address the necessary penalty documentation, the recommendation will be considered complete.



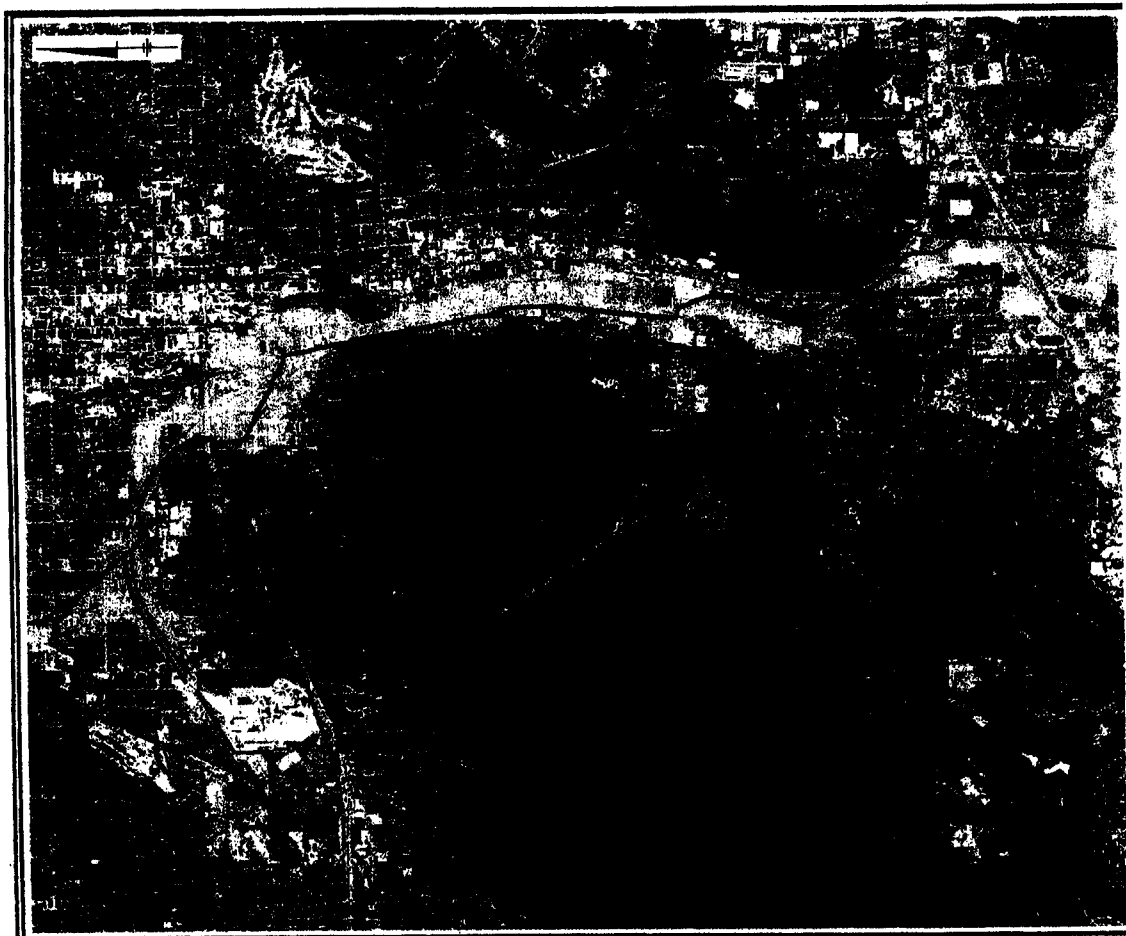
Anniston PCB Site  
OU1/OU2 (Residential / Non-Residential)

Record Of Decision Presentation  
November 2017





# OU1/OU2



## LEGEND:

- SNOW CREEK
- 11th STREET DITCH
- WEST 9th STREET DITCH
- OU-1/OU-2 INVESTIGATION AREA
- OU-3 BOUNDARY
- OU-1/OU-2 100-YR FLOODPLAIN



# Media of Concern



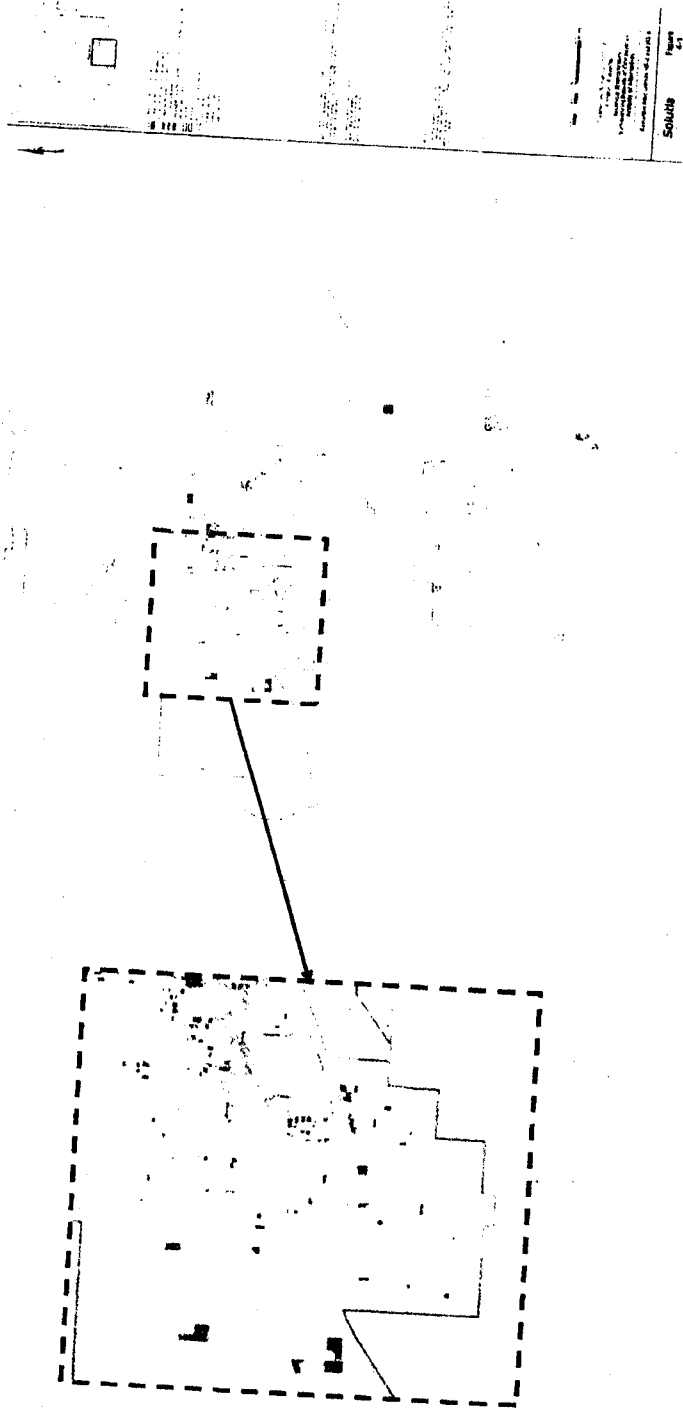
- Residential Soil
- Non-Residential Soil
  - Special Use Properties
  - Interim Measures
  - Dredge Spoil Piles
  - Unauthorized Waste Disposal Areas
  - Nonresidential floodplain soil
- Groundwater
- Sediment from Snow Creek
- Surface water from Snow Creek
- Ambient air

## Preferred Remedial Alternatives

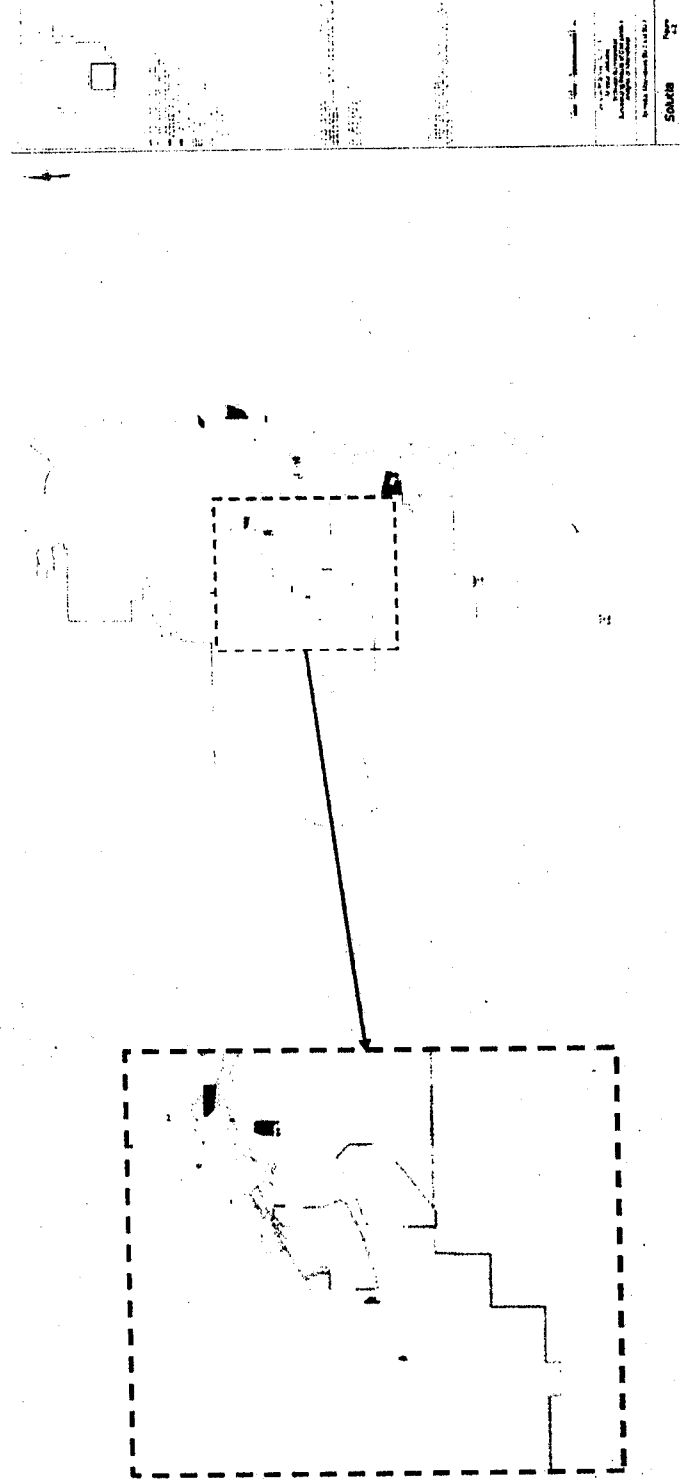
• Residential Soil:	RS-2	\$7.3M
• Special Use Properties:	SU-3	\$3.2M
• Interim Measures Areas:	IM-4	\$4.3M
• Dredge Spoil Piles:	DSP-4	\$1.4M
• Unapproved Waste Disposal Areas:	UWDA-3	\$2.7M
• Nonresidential Soil:	NRS-4	\$10.4M
• Groundwater and PTW at T-11:	GW-4	\$4.2M
• Sediment and Creek Bank Soil:	SED-4	\$3.1M

**TOTAL ESTIMATED COST: \$36.6M**

# Residential Soil (RS-2): Complete the Non-Time-Critical Removal and Manage PCB Residuals

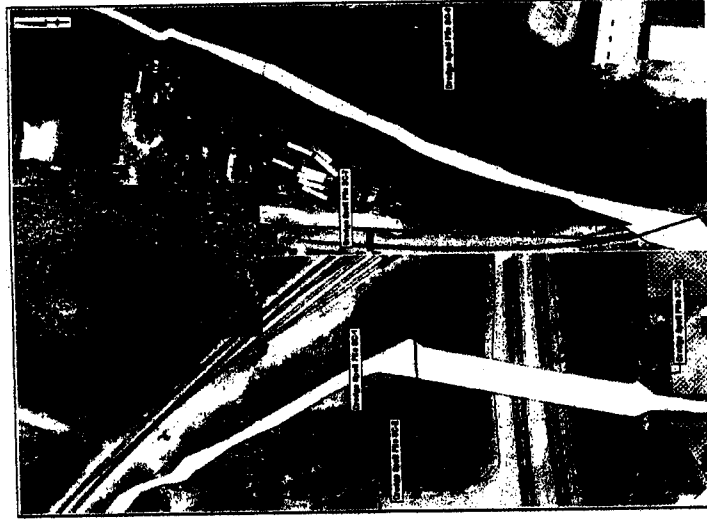
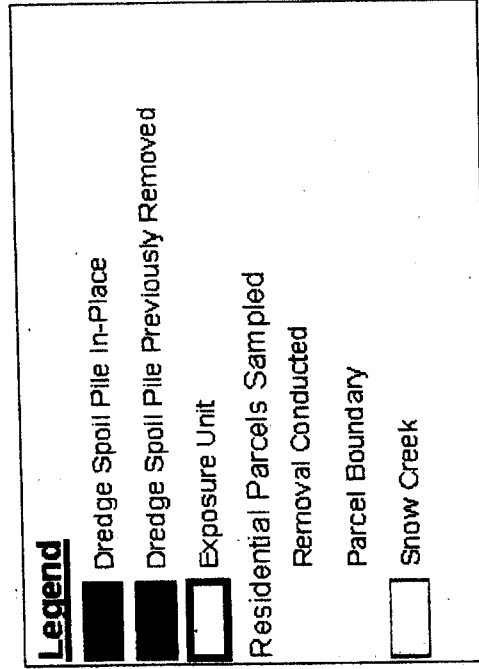


# Special Use (SU-3): Excavate Surface Soil in Low Activity Areas to a PCB RG of 1 mg/kg and Manage PCB Residuals





# Dredge Spoil Piles (DSP-4): Excavate All Dredge Spoil Piles and Offsite Disposal



# Unapproved Waste Disposal Areas (UWDA-3) RCRA Subtitle D Cap





# Groundwater and PTW (GW-4) - Excavate Area, Install Low Permeability Cap, and Extract & Treat Groundwater



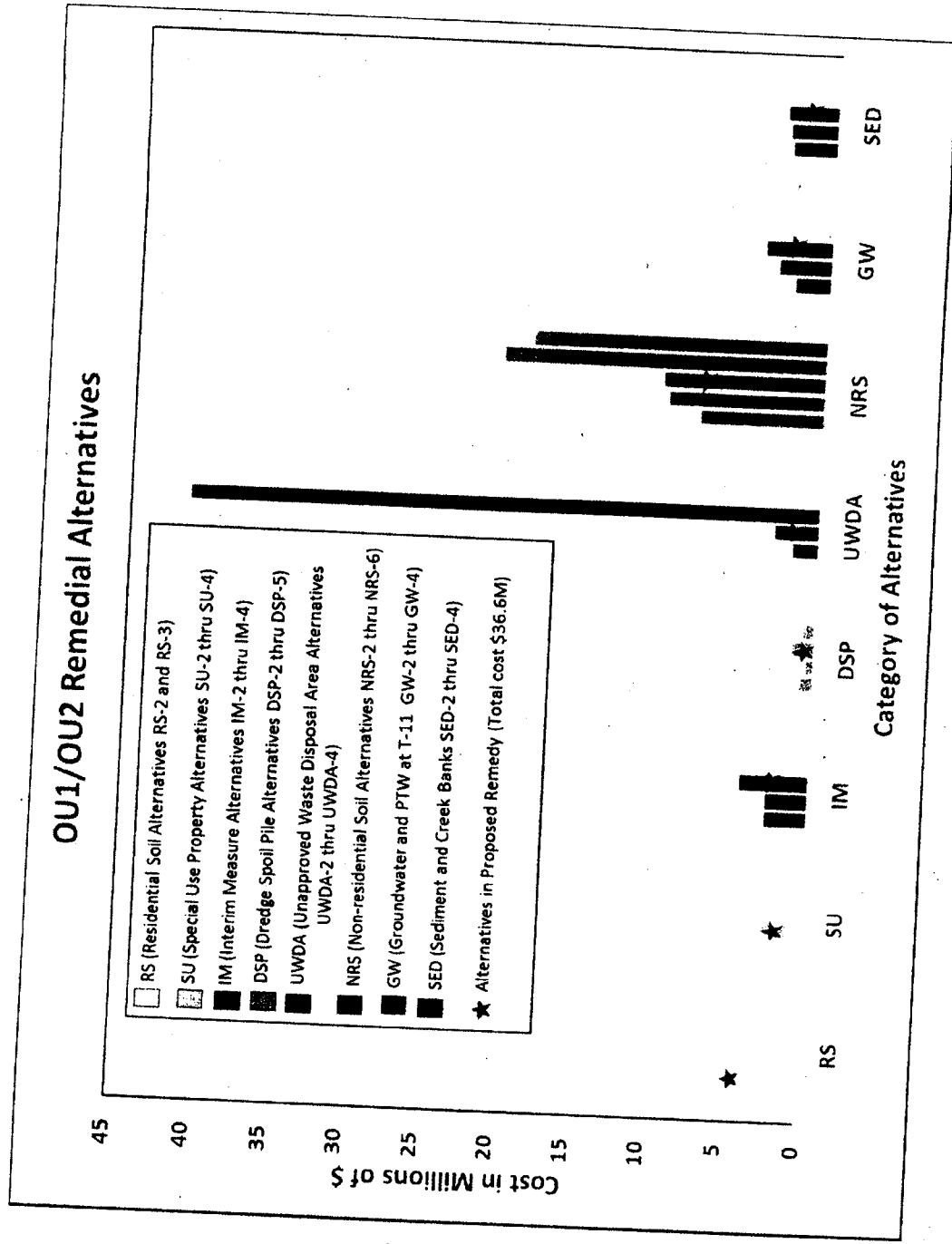
# **Sediment and Creek Banks (SED-4(a)) Excavation and Offsite Disposal**

(a) PCB RG 3 mg/kg



### Other Cleanup Options Evaluated

- Total costs for the remedy (which includes one alternative for each category) range from \$25.3M to \$95.8M.
- Total Cost for the Proposed Remedy is \$36.6M



# Political and Local Considerations

- In 2002, Congress held hearing on why the EPA had not responded more quickly to PCB threat.
- Senator Shelby and Senator Sessions were involved in early 2000-2002; there has been little congressional activity since then.
- The Northern District Court in Birmingham (currently Judge Bowdre) has appointed two special masters (technical and legal) to oversee activities under the CD.
- ADEM concurs with the proposed remedy.
- Federal and State trustees (U.S. Fish and Wildlife Service, Geological Society of Alabama, Alabama Department of Conservation and Natural Resources) are focused on the Baseline Ecological Risk Assessment being conducted for OU4 and would rather the OU1/OU2 ROD was delayed so that it considered soil and sediment cleanup based on the results of the OU4 BERA.
- The local community is engaged through a community advisory group (CAG) and a technical advisor.

# Potential Challenges

- Solutia and Pharmacia will have difficulty agreeing to
  - 1) the remedy for unapproved waste disposal areas,
  - 2) managing PCB residuals on residential properties cleaned up by the foundries (Anniston Lead Site), and
  - 3) cleaning up soil and sediment for non-PCB contaminants that are not co-located with PCBs.
- Non-residential property owners and the auto fluff generator will be asked to perform or pay for parts of remedy that Solutia and Pharmacia won't agree to.
- The EPA may have to share costs for work on residential properties cleaned up by the foundries.
- The EPA historically has not forced access to clean up residential properties over an owner's objection.

## **Next Steps**

- Sign ROD in 2017
  - Update Administrative Record.
  - Publish Notice that ROD is signed and available.
- Refer the OUI/OU2 remedy to DOJ
  - ORC and Superfund complete referral package (November).
  - RA signs letter to DOJ communicating referral (November-December).
- DOJ has 60 days to review and comment on draft CD and draft SOW before special notice letters are issued.
- Send out Special Notice Letters to begin RD/RA negotiations (February or March 2018).



**STATE OF MISSISSIPPI**  
**OFFICE OF THE GOVERNOR**

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**HALEY BARBOUR**  
GOVERNOR

February 18, 2005

Mr. Jimmy Palmer  
Regional Administrator  
United States Environmental Protection Agency  
Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-3104

Dear Jimmy,

The Mississippi House of Representatives is currently considering drastic cuts to the Mississippi Department of Environmental Quality (MDEQ) and delegating all federally mandated environmental programs to the direct authority of the Environmental Protection Agency (EPA) effective July 1, 2005. This proposal is of great concern to me as I believe the impacts of reverting the implementation of federal regulatory programs to the federal government would have negative consequences on our own ability to directly serve the environmental needs of our state and citizens.

I would appreciate you providing me a detailed summary of the consequences to the State of Mississippi should administration of federal environmental regulations be relinquished solely to the jurisdiction of the federal government. Jimmy, I appreciate your assistance in helping address this matter, and I look forward to your next visit home.

Sincerely,

Haley Barbour  
Governor

HB/jr



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAR 11 2005

Governor Haley Barbour  
State of Mississippi  
Post Office Box 139  
Jackson, Mississippi 39205-0139

Dear Governor Barbour:

Thank you for your February 18, 2005, letter concerning a proposal before the Mississippi Legislature to drastically cut the budget of the Mississippi Department of Environmental Quality (MDEQ) and return state administered environmental programs and authorities to the United States Environmental Protection Agency (EPA). You asked for a detailed summary of the consequences to the State of Mississippi if this were to happen.

At the outset, it must be pointed out that the State of Mississippi administers and enforces numerous EPA environmental programs through five agencies: (1) MDEQ, (2) the Department of Health (MDOH), (3) the Oil and Gas Board, (4) the Department of Agriculture and Commerce (MDAC), and (5) the Agricultural Aviation Board (Ag Aviation Board). While each of these agencies acts independently, their federal program responsibilities intersect and interact at many points, as I will explain here.

The essence of the dilemma that this legislative proposal would create is that reverter of authority now exercised by MDEQ would subject all regulated municipal, county, industrial, and other public and private facilities in Mississippi to direct EPA implementation of environmental programs which govern: (1) permits, (2) enforcement of federal statutes, regulations, policies, and permit conditions, (3) planning and monitoring to ensure attainment of ambient air and water quality standards, and (4) other requirements, most notably grants and other funds that now flow to the State and local governments. Moreover, Mississippi statutes and MDEQ regulations, practices and procedures that may be more stringent than federal counterparts would be shown no deference.

EPA awards MDEQ and other agencies in Mississippi annual grants to fund various environmental permitting, enforcement, and monitoring activities under the Clean Air Act (CAA), the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), the Toxic Substances Control Act (TSCA), and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). These grants help pay salaries for State staff, overhead for State owned buildings and facilities, and for outside contractors. In 2004, these awards

amounted to \$34,731,579 in federal funds for Mississippi's environmental programs. MDEQ, alone, received \$26,134,494. Thus, the State could lose millions of federal dollars in 2005 if federal programs revert to EPA. When the loss of income from fee programs like the CAA Title V Permit Program is included, Mississippi could lose as much as an additional \$6,000,000.

Besides the loss of future grants, another consequence of defunding MDEQ may be the reallocation of current Clean Water Act State Revolving Fund (CWSRF) grants (which exceed \$11 million), if the State is unable to comply with the CWSRF grant requirements. Also, as a consequence of MDEQ's potential inability to implement its CAA State Implementation Plan, Mississippi may be subject to sanctions that include loss of federal highway funds for new highway projects or for the expansion of existing roads.

Now, having generally framed the potential consequences Mississippi would face if EPA environmental programs administered by MDEQ revert to EPA, I will address specific issues in more detail, as you requested. As already briefly described, the potentially impacted environmental programs generally fall into four categories: (1) permitting; (2) compliance and enforcement; (3) planning and monitoring; and (4) funding programs, most notably the State Revolving Fund (SRF) Loan Programs. In addition, while most State environmental activities under federal law fall into these four categories, there are specific activities which do not fit neatly within them and are therefore considered separately (for example, the establishment of Total Maximum Daily Loads (TMDLs) under the Clean Water Act). What follows is an analysis of the potential programmatic and financial impacts on Mississippi.

## **I. Permitting**

Permitting of activities, including discharges and emission sources, is one of the primary responsibilities of state environmental agencies under federal law. In recent years, Mississippi has worked to streamline and coordinate environmental permitting requirements under the various statutes to facilitate "one stop shopping" and have greater certainty about permitting requirements and time-lines. In fact, MDEQ is now organized along these lines.

In contrast, EPA is not currently organized to facilitate this kind of consolidated permitting activity. If MDEQ loses its lead role, State priorities for permit processing would not control. And, while EPA would make every effort to ensure that permit applicants understand the full range of requirements applicable to their facilities and would strive to meet any statutory processing deadlines established by federal law, EPA could not likely offer applicants the same level of compliance assistance as MDEQ.

The specific requirements to apply for environmental permits vary by federal statute. Listed below are some of the major statutory provisions, with a brief discussion of what the implications would likely be if these programs revert to EPA.

## A. Clean Air Act

MDEQ issues two types of permits to sources of air emissions. The first is pre-construction permits under Title I, Part C of the CAA for new or modified major sources of air emissions. The second is operating permits under Title V of the CAA for major sources.

### 1. New Source Review

Any proposed major new or modified source of air emissions in Mississippi must receive a permit under Part C for the Prevention of Significant Deterioration (PSD) of air quality. It is illegal to commence construction on any major new or modified source without such a permit. For this reason, PSD permits for sources subject to these requirements are critical for most projects.

PSD regulations are complex and involve many determinations, including what level of control the source will be required to apply. If Mississippi eliminates this program, EPA will be required to make these determinations and issue any PSD permits before construction can commence on any major new or modified existing source in Mississippi. Applicants will be required to submit applications to, and then work through the entire process with, Region 4 staff in Atlanta. Although current Mississippi regulations mandate the issuance of a PSD permit within 150 days of receipt of a complete application, under federal law EPA would be required to grant or deny any complete application within one year of filing. However, the burden of submitting a complete application rests with the applicant, and it is likely that permit processing will require the full statutory time allowed for this activity. Even under the best of circumstances, there will probably be substantial delays in the processing of environmental permits for economic development projects of importance to the State.

### 2. Title V Operating Permits

Title V of the CAA requires that all major sources of air emissions also obtain operating permits. These permits are now issued by MDEQ, and there are 398 Title V sources in Mississippi. Funding for this particular program is generated by fees required by the CAA. The Mississippi legislature adopted the Title V program, and the mandatory fees, in 1994.

If this program reverts to EPA, three consequences will result. First, Region 4 will assume the responsibility for issuing or renewing permits for all Title V sources. Additionally, and very significantly, the authority to prescribe the fees for these permits would also revert to EPA because state statutes would not control. In order to recover our costs for issuing these permits, EPA would charge permittees at least the statutory minimum of \$38.57 per ton in permit fees, which would increase every year to match increases in the Consumer Price Index, and additional fees, if necessary, to cover the costs of EPA implementing the permitting program. By contrast, MDEQ has set the current Title V fee in the State at \$31.00 per ton. In 2004, Mississippi collected

\$5,584,496 in Title V fees. Based on Title V fees collected in 2004, this means that Mississippi industries will have to pay an additional \$1,363,697 in fees, approximately a 24% increase. If MDEQ loses the Title V program, all of this money, plus the increases allowed by federal law, would be collected by EPA instead of the State.

## B. Clean Water Act

### 1. National Pollutant Discharge Elimination System (NPDES) Permits

Since May 1, 1974, Mississippi has been delegated authority to issue permits for municipal, industrial, and other wastewater discharges, under § 402 of the CWA. If MDEQ loses this program, EPA would do its best to process these permits in a timely manner, but the likely result will be a significant backlog of permit actions for both existing and proposed facilities in Mississippi. This would likely delay the issuance of permits to new and existing facilities that need such permits to start or expand operations. Moreover, if MDEQ lacks permitting authority, to the extent that existing Mississippi NPDES permits limit flows into facilities, those facilities seeking expansions may not legally be able to increase flows into their systems until EPA permit actions are completed. If a facility expands before EPA's permit actions are completed, enforcement sanctions could be imposed.

Importantly, there is an administrative process associated with voluntary transfer of the NPDES program back to EPA, which requires 180-day advance notice to EPA, during which time a delegated State is expected to continue running the program. MDEQ would have to develop a plan for the orderly transfer of the program to EPA, including all necessary records. EPA must also publish a notice of the transfer in the *Federal Register* and other newspapers.

## C. Underground Injection Control (UIC) Permit/Inventory Program

Currently, MDEQ issues and modifies permits for Class I injection wells (both hazardous and nonhazardous), as authorized under Part C of the Safe Drinking Water Act. The MDEQ UIC Program also provides technical support for Class I permittees seeking new permits in the State. In addition, MDEQ is currently conducting a county-by-county inventory of all Class V wells within the State. To date, MDEQ has successfully inventoried over 700 Class V wells. Should the State return the UIC program to EPA, all Class I and Class V related UIC activities would become the responsibility of EPA. While EPA would do its best to perform these activities, limited resources will likely prevent EPA from having the same degree of presence in the State for these activities as MDEQ has been able to provide.

It should be noted that there is an administrative process associated with the voluntary transfer of the UIC program back to EPA, which involves 180-day advance notice to EPA, during which time MDEQ would be expected to continue running the program. MDEQ would have to develop a plan for the orderly transfer of the program to

EPA, including all necessary records for Class I and V wells. EPA must also publish a notice of the transfer in the *Federal Register* and other newspapers.

#### **D. Resource Conservation and Recovery Act (RCRA)**

##### **1. General**

Currently, MDEQ issues permits to RCRA treatment, storage and/or disposal facilities (TSDFs) under its authorized RCRA program. Because state hazardous waste management laws remain in effect regardless of the state's authorization status, giving back the authorized program will not terminate a facility's obligation to comply with Mississippi requirements. As a result, unless the State repeals its hazardous waste management laws, thus ceding all regulatory authority over hazardous wastes to the federal government, the regulated industry in Mississippi would be subject to a dual regulatory scheme, and would be required to comply with both Mississippi and federal law. Without careful planning and coordination, a dual regulatory program of this nature potentially would be very disruptive and expensive for owners and operators of TSDFs. For example, TSDFs may face duplicative and costly requirements as they go through the process of obtaining EPA-issued permits to replace expiring permits issued by MDEQ. In addition, potential legal challenges to these permits might increase uncertainty within the regulated community. An EPA implemented RCRA hazardous waste program would also cause other impacts. For example, due to unique requirements of Mississippi laws and regulations not included in the federal program, some owners and operators of commercial hazardous waste facilities that are currently unable to obtain state operating permits may be eligible to obtain operating permits from EPA.

##### **2. Municipal Solid Waste**

Mississippi has had an EPA approved solid waste permit program since 1993. If MDEQ loses the ability to implement this program, the State would no longer have a permit program that ensures compliance with the requirements of RCRA. EPA would have to withdraw its determination of program adequacy. After that determination, EPA would have the authority to enforce RCRA's solid waste criteria, however, EPA has no authority under RCRA to issue solid waste permits.

Unless Mississippi law is modified, municipal solid waste facilities will still be required to have a state permit under state law to operate. Thus, in the event that MDEQ lacks the resources to renew expiring permits or to issue new permits, solid waste facilities would either have to cease operation or not be able to commence operation in compliance with state law.

In addition, landfills subject to the federal criteria would have to comply with that criteria without being able to use the flexibility provisions provided to approved states. For example, the Director of an approved state program may allow alternate cover requirements; allow alternative schedules for demonstrating compliance with various requirements; suspend certain monitoring requirements; and, approve alternate

monitoring systems and requirements. These provisions are not effective unless the state has an approved program. As to other state law provisions, EPA does not have the authority to address any other parts of the Mississippi solid waste statutes, for example, the county plan requirement, service areas, or tipping fees.

## **II. Compliance and Enforcement**

Reversion of MDEQ's environmental authorities to EPA would require EPA to assume full, direct responsibility for compliance monitoring and enforcement of federal environmental laws (including the provisions of permits) in the State. Since EPA does not have dedicated personnel or financial resources for compliance monitoring and enforcement activities for the State of Mississippi, EPA would have to perform these activities, such as inspections and investigation of citizen complaints, within the limits of existing resources.

EPA would likely rely heavily on facility self-monitoring and would strictly enforce violations disclosed by these reports. Due to resource constraints EPA would also be less likely than the State to conduct the compliance outreach activities now performed by MDEQ. If EPA finds violations, they would be addressed in accordance with federal enforcement response policies, in federal administrative and judicial courts. Penalty assessments would be assessed based strictly on federal statutes. State protocols would not apply. Administrative enforcement cases would be heard by federal administrative law judges out of Washington, D.C., and civil judicial enforcement cases would be brought by the United States Department of Justice, on behalf of EPA, in the United States District Courts. Due to limited resources, settlement discussions that a Mississippi business would want to conduct with EPA would generally take place in Atlanta. Therefore, transaction costs for parties involved in enforcement proceedings would substantially increase. Resource constraints would also limit the availability of compliance assistance.

Finally, all penalties collected by EPA for environmental violations under programs that were formerly administered by MDEQ would be deposited, with very few exceptions, into the general fund of the United States Treasury under the Federal Miscellaneous Receipts Act. This means that penalties from environmental violations would no longer be deposited into the Mississippi Pollution Emergency Fund, which is used by the State to conduct emergency responses, pollution abatement and remediation, and other activities as described in Mississippi Code Section 49-17-68. While EPA will make every effort to respond to environmental emergencies, especially significant events in Mississippi, EPA would do so from its Emergency Response Center in Atlanta, and may have to do so without the local knowledge and expertise provided by MDEQ.

## **III. Planning and Monitoring Activities**

In addition to permitting, compliance, and enforcement activities, EPA provides grants for MDEQ to engage in environmental planning and monitoring activities under

EPA's various statutes. Some of the impacts to be expected if MDEQ no longer administers environmental programs in the State are described below.

#### A. Clean Air Act

EPA helps fund Mississippi's National Air Monitoring, State and Local Air Monitoring, and Special Purpose Criteria monitoring networks. If MDEQ's environmental programs revert to EPA, all federal funding to the State for this program would cease, and EPA would take over and provide air quality monitoring in the State. However, it would likely be less than what Mississippi is currently providing, which would result in less information being made available to the public concerning air quality. Mississippi also receives some federal funding to support air toxics monitoring. If the MDEQ program ends, EPA would not have the resources to conduct the extensive air toxics monitoring currently being conducted by MDEQ. It is also likely that EPA would not be able to respond as rapidly as the State to citizens' concerns relating to air toxics.

#### B. Clean Air Act State Implementation Plan

The CAA requires each State to adopt a State Implementation Plan (SIP) that provides for the maintenance, enforcement, and implementation of the CAA ambient air quality standards. The EPA has approved such a plan for Mississippi. In the event that a state were to relinquish the authority to enforce and implement the approved plan, EPA could make a determination that the state is failing to implement its SIP. Such a finding could lead to the mandatory imposition of sanctions in any area designated nonattainment, or the discretionary imposition of highway sanctions in any area of the state, regardless of the attainment status of the area. These sanctions include a requirement that new air pollution sources in any areas designated, or newly designated, as nonattainment under the CAA, would be subject to New Source Review permitting requirements that include a requirement to offset emissions by a 2 to 1 ratio, which could limit new industrial facilities from locating in any area of the state designated nonattainment; and, a prohibition on the approval of certain projects or the awarding of certain grants by the United States Department of Transportation, even in areas that currently meet CAA attainment standards. In general, this latter sanction would limit federal funding for new highway or road construction projects, but would allow federal funding for limited projects directed at safety or improving air quality. EPA would also assume responsibility for establishing emission standards for Mississippi sources as necessary to attain and maintain the national ambient air quality standards. Additionally, EPA could issue a Federal Implementation Plan (FIP) that supplants the SIP and includes only federal measures. The highway sanctions could continue under a FIP.

#### C. Resource Conservation and Recovery Act

Mississippi has been receiving \$1,244,000 annually in grant funds to support its RCRA program. This amount is the federal contribution for the cost of program management and administration, permitting, updating state regulations to stay current

with promulgated federal regulations, compliance and enforcement, and training. If MDEQ authority reverts to EPA, the RCRA grant will cease.

#### D. Clean Water Act Section 106

If MDEQ loses the Clean Water Act (CWA) programs discussed herein, EPA would revoke the CWA §106 grant which, based on the FY 2005 allocation, provides \$3,956,047 for the administration of programs for the prevention, reduction, and elimination of water pollution.

#### E. Clean Water Act Section 305(b) Reports and Section 303(d) Lists

Section 305(b) of the CWA requires each state to describe the quality of its water resources, both surface water and ground water, in a report for the EPA, Congress, and the public, on a biennial basis. Section 303(d) of the CWA requires that each state develop, also on a biennial basis, a list of impaired and threatened waters requiring TMDLs, an identification of the impairing pollutant(s), and a priority ranking of these waters for TMDL development. MDEQ, as the lead State agency for environmental protection in Mississippi, has historically been very successful in developing § 305(b) reports and § 303(d) lists that accurately represent water quality conditions throughout the State. If MDEQ loses its ability to meet its statutory responsibility for developing and establishing § 303(d) lists, these lists will be developed by EPA.

#### F. Clean Water Act (TMDLs)

If Mississippi fails to meet its CWA responsibilities through MDEQ, EPA will develop and establish TMDLs, which identify the necessary pollutant load reductions in order for Mississippi waters to attain water quality standards. For each of the TMDLs, EPA would make the decisions regarding how loads should be equitably allocated among the point sources (e.g., municipal and industrial discharges covered under § 402 of the CWA) and nonpoint sources of pollution (e.g., storm water runoff and other contributions from agricultural and silvicultural areas), without the benefit of the knowledge, expertise, and important input of MDEQ. In addition, TMDLs developed for Mississippi waters without MDEQ involvement would not benefit from MDEQ's vast knowledge and experience in working successfully with stakeholders throughout the State.

Litigation over the Mississippi TMDL program was resolved in a 1998 Consent Decree which set out a ten year schedule for TMDLs to be established for all waters included on the State's 1998 Section 303(d) List. During the past six years, MDEQ has established the great majority of the TMDLs required by the Consent Decree. If MDEQ no longer establishes these TMDLs, then EPA must address hundreds of waters during the next four years, either through the establishment of TMDLs or through determinations that TMDLs are not required. Among the very important water bodies that must be addressed in the next four years are the Mississippi River, the Pearl River, and the Yazoo River Basin. Continued active participation by MDEQ throughout the

next four years is very important to the successful development of TMDLs for these waters.

#### **IV. State Revolving Fund Loan Programs**

##### **A. Drinking Water State Revolving Fund Loan Program**

Under the Safe Drinking Water Act (SDWA), only those states which have been granted primacy for the drinking water program are eligible to receive federal grants to build up and administer a Drinking Water Revolving Loan Fund (DWSRF). Mississippi's DWSRF is used to provide low interest loans to communities in Mississippi to provide safe drinking water to their citizens. In 2004, EPA awarded \$8,303,100 to Mississippi to capitalize its DWSRF loans to local governments. The primacy agency for drinking water in Mississippi is the Mississippi Department of Health (MDOH). However, MDOH administers this program in cooperation with MDEQ, which handles much of the planning, environmental review, and construction oversight functions.

If Mississippi lost primacy, EPA would stop making additional DWSRF grants to Mississippi. Funds from the State's allotment could be used by EPA to administer the Public Water Supply System requirements of the SDWA in the State. Any remaining funds from the State's DWSRF allotment would be allocated to other states. Low interest DWSRF loans would no longer be available for local governments in the State. Further, the inability or failure of any public water system to receive assistance from the DWSRF program, or any delay in receiving assistance, does not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of the SDWA. Thus, the State could not only lose funds available to its water systems, but could also cause local systems to lapse into violation of the SDWA for failure to comply with applicable standards.

##### **B. Clean Water Act State Revolving Fund Loan Program**

Under the CWSRF program, EPA awards annual grants to MDEQ to fund low-interest loans to cities and other local governments to pay for the planning and construction of wastewater treatment facilities. MDEQ has very successfully managed this program for nearly twenty years. There is currently approximately \$90 million in outstanding loans to cities and local governments for the construction of wastewater collection and treatment facilities that have been funded by EPA capitalization grants to Mississippi. Last year, EPA awarded MDEQ an additional \$11,940,192 to support this program. If Mississippi abandons the CWSRF program, future EPA grant funds will be allotted to other states, since EPA does not have the authority to manage a CWSRF program for a state. This would cause an immediate cessation of new loans and uncertainty regarding the future status of the CWSRF loan funds repaid to the State. Under the terms and conditions of the CWSRF grant, MDEQ is required to maintain loan repayments in a separate account and use them to make new loans for the construction of treatment works. If the State no longer maintains the CWSRF program, it would no longer meet the requirements of its current or prior capitalization grants and could be subject to an enforcement action. At a minimum,

this action could result in withholding the current Mississippi capitalization grant payments and the reallocation of such payments to other states.

## **V. Potential Impacts to Other Environmental Programs**

### **A. CWA § 401 Certification**

There is also a potential impact related to water quality certification. Under 33 U.S.C. § 1341 (CWA § 401), an applicant for a federal permit or license to conduct any activity which may result in any discharge to navigable waters is required to obtain certification from the state in which the discharge will occur that the discharge will comply with certain provisions of the CWA, including state water quality standards. Currently, MDEQ has been identified by the State as the agency authorized to provide § 401 certification for federal licenses and permits. This includes CWA § 404 dredge and fill permits, CWA § 402 NPDES permits when EPA is the issuing agency, and Federal Energy Regulation Commission (FERC) licenses. In addition to certifying that state water quality standards are met, the certification may identify special conditions that are necessary to meet any other appropriate requirement of state law. Unless there is an identified state agency with authority to issue certifications, the state loses the ability to comment on, and require the inclusion of, conditions in federal licenses and permits, including § 404 permits, FERC licenses, and EPA- issued NPDES permits.

### **B. CWA § 319 Non-Point Source Program**

Under CWA § 319, EPA gives grants to states to address non-point source water pollution. Under this program, MDEQ is the lead agency and sets the priority for non-point source pollution efforts and passes some of the CWA § 319 funds on to local governments, other State agencies, universities, and non-profit groups. Between 1999 and 2004, EPA gave the State \$25,408,500 in federal funds to address non-point source water pollution. In that same time period, MDEQ provided \$8,981,274 in matching funds, mostly through MDEQ personnel assigned to work on § 319 projects. Cities, local governments and other sources in the State provided another \$6,680,392 in local matching funds. MDEQ has spent considerable effort in the last five years to develop a partnership-based program which has included working with the Mississippi Soil and Water Conservation Commission, the Department of Marine Resources, Mississippi State University, and many other cities, local governments, consortiums, and non-profit groups in Mississippi to develop strategies to limit and reduce non-point source pollution. Recent high profile projects include the restorations of Abiaca Creek-Tchula Lake, Bee Lake and Bear Creek. MDEQ is also using CWA § 319 funds to collaboratively implement TMDLs which, as explained above, are required under the CWA.

Since the CWA requires a 40% match, if MDEQ lost funding for the CWA § 319 program, EPA would reduce its CWA § 319 grant to the State by a comparative amount, or eliminate the program if the State does not provide the required match. Because the CWA does not provide EPA the authority to operate a § 319 program for a state, much of MDEQ's work in this area would simply stop. Finally, since many of MDEQ's § 319

projects are still ongoing, if the State is unable to complete them, the federal share may have to be repaid to EPA under EPA's grant enforcement authority.

### C. Federal Insecticide Fungicide and Rodenticide Act

FIFRA regulates the use of pesticides. Under FIFRA, State personnel train and certify pesticide applicators to apply restricted use pesticides and conduct inspections to determine if all pesticides are used in accordance with the label requirements. In conjunction with the training and certification of applicators, Mississippi collects fees to help pay for the program. Mississippi also takes enforcement actions against persons or entities who misuse pesticides and refers misbranded (pesticides bearing inaccurate or inappropriate labeling) pesticides to EPA for enforcement. Mississippi may also suspend or revoke applicators' certifications to apply pesticides.

In Mississippi, FIFRA is implemented by two entities, the Mississippi Agricultural Aviation Board (Ag Aviation Board) and the Mississippi Department of Agriculture and Consumer Services (MDAC). The Ag Aviation Board has primacy to implement pesticide regulations for aerial application of non-hormonal pesticides. The Executive Director of the MDEQ serves as the Chairman of the Ag Aviation Board and MDEQ personnel coordinate and oversee the day-to-day function of the Ag Aviation Board. MDEQ has been responsible for the development of rules, guidance and operational plans, as well as grant applications and initial preparation of enforcement matters for the Ag Aviation Board. Overall, MDEQ is critical to the effective administration of board activities. The Bureau of Plant Industry in MDAC has primacy for all other pesticide matters in Mississippi. Both entities train and certify applicators

If these functions revert to EPA, pesticide applicators would have to receive training and be certified for the use of restricted use pesticides by EPA. This would likely mean fewer opportunities for training and subsequent certification for Mississippi applicators. In the context of compliance and enforcement, EPA would inspect pesticide producing establishments, pesticide dealers, agricultural operations, nurseries, and forestry operations for compliance. In the event of non-compliance, EPA would proceed with enforcement from the regional office in Atlanta and impose penalties for non-compliance based on federal penalty policies. EPA would also be responsible for determining whether to take action to suspend or revoke pesticide applicators' certifications to apply pesticides. The State would have no role in this process. Additionally, the State would lose over \$450,000 in EPA grant funds for Fiscal Year 2005 if this program is lost.

### D. Underground Storage Tank (UST) Program

There are approximately 9,000 regulated underground storage tanks in Mississippi. Loss of MDEQ's authority to operate the EPA approved state UST program in lieu of the federal UST program, which arises under RCRA, would result in several significant impacts. First, approximately \$186,675 in annual funding to support the State program would be lost. Second, leaking underground storage tank (LUST) clean up funds, which EPA provides annually to address abandoned and recalcitrant owner site cleanups, would

also be lost, unless Mississippi created another approvable cleanup program to take the place of the one now being successfully managed by MDEQ. Third, currently the State trust fund serves to fulfill the federal financial responsibility requirement imposed on all UST owners and operators. Loss of MDEQ's administration of the fund, without transferring responsibility of administration to another agency would result in the owners and operators of the 3,400 UST facilities in Mississippi being left without the state run UST financial responsibility program that has been approved by EPA. Therefore, unless Mississippi created another approvable financial responsibility program, those UST owners and operators would be left on their own to purchase insurance, post bond, or otherwise demonstrate to EPA that their financial responsibility requirement had been met.

#### E. Toxic Substances Control Act

TSCA regulates toxic substances such as lead based paint, asbestos, and polychlorinated biphenyls (PCBs). Under the State's TSCA program, MDEQ conducts 75-100 Lead-Based Paint inspections and enforcement actions, and over 50 asbestos inspections, annually. Mississippi also administers a Lead-Based Paint certification and accreditation program under TSCA for individuals and firms involved in Lead-Based Paint abatement work, and an asbestos certification program. If these responsibilities revert to EPA, inspections would be conducted by Region 4 personnel, which would likely result in fewer inspections (i.e., EPA's capacity to conduct inspections is likely less than 10% of the State's capacity), and individuals and firms currently certified in Mississippi for lead-based paint work would have to pursue EPA certification. Workers who wish to receive Lead-Based Paint certification would have to go out of state to receive training until a training organization in Mississippi receives federal accreditation. In addition, EPA grant funding for MDEQ activities under TSCA, which is approximately \$420,000 per year (i.e., annual program and enforcement grants), would be terminated if MDEQ authority is lost. Also, EPA, not MDEQ, would then assess and collect fees for accreditation and certification activities for the Lead-Based Paint program. Those fees would no longer go to Mississippi. The result will be different for the Asbestos Training program. If Mississippi loses primacy for this program, since EPA does not approve asbestos training providers or certify workers directly, Mississippians seeking asbestos certification would have to travel to another state that has asbestos primacy (such as Florida or Alabama) to receive certification, and pay fees to that state agency in lieu of Mississippi.

#### F. Superfund (CERCLA)

Currently, there are three listed National Priority List (NPL) sites and two proposed NPL sites in the State of Mississippi. A Superfund financed CERCLA remedial action cannot go forward unless a state provides certain required assurances. Some of the most significant requirements include the following: first, § 300.510 of the National Contingency Plan requires that states share 10 percent of the cost of Fund-financed remedial actions, unless the facility was publicly operated at the time of the disposal of hazardous substances, in which case the cost share is 50%; second, before a Fund-financed remedial action may be initiated, the state must agree to assume responsibility for operation and maintenance of implemented remedial actions for the expected life of

such actions; and third, the state must assure that any institutional controls are implemented as a part of the remedial action. Without a state program capable of making these assurances, EPA will no longer be able to conduct Fund-lead remedial actions in the State of Mississippi.

#### G. Emergency Response (CERCLA)

EPA and MDEQ run complementary emergency response programs. MDEQ responds to the vast majority of hazardous substance and oil spills in the state. EPA generally responds only to major incidents where MDEQ resources are overwhelmed and MDEQ requests assistance. In federal fiscal year 2004, MDEQ responded to 860 incidents. During that same period, EPA responded to ten of those incidents in support of MDEQ. Another important element of MDEQ's emergency response program is the cleanup fund. This fund is replenished with penalties levied by other MDEQ programs. The funds are used to hire contractors to abate threats posed by oil and hazardous substance spills. During FY04, MDEQ spent \$814,414 on spill cleanup. In summary, MDEQ's emergency response program is extremely capable and provides a tremendous service to the people of Mississippi. Elimination of this program and/or loss of the cleanup fund could effect the well being of Mississippi's people and environment.

#### H. Brownfields Program (CERCLA)

Pursuant to CERCLA § 128(a) "Brownfields State Response Program", a state is eligible to receive a grant of up to \$1.5 million per year to establish or enhance response programs provided that the state has a response program that meets the requirements of §128(a)(2), or has entered into a memorandum of agreement with EPA for a voluntary response program. Mississippi received \$821,218 in §128(a) funding last year and has requested the same amount of funding for this year. Without a program that satisfies the requirements of § 128(a)(2) or an established voluntary response program, Mississippi would not be eligible to receive any §128(a) funding.

Failure to have a response program in the State of Mississippi could also affect the availability of CERCLA § 104(k) grants for facilities in the State. CERCLA § 104(k) provides for Brownfields Assessment, Revolving Loan Fund and Cleanup grants. In order to receive § 104(k) cleanup grants, applicants must provide for adequate oversight of the cleanup. In order to meet this requirement, applicants typically participate in a state response program. Without a state response program, applicants may have to divert funds that could be used directly on cleanup to hiring technical experts who can provide the necessary oversight. Moreover, EPA requires that applicants, other than states or tribal environmental authorities, provide a letter from the state or tribal authority acknowledging that the applicant is applying for federal funds. Section 104(k) grants to cities, local governments and non-profits would be jeopardized if Mississippi were unable to provide such a letter.

## **VI. Reacquisition of Program Delegations/Authorizations in the Future**

Another factor which should be considered before cutting MDEQ's budget and/or reverting state-administered environmental authorities back to EPA, is that the process of receiving a delegation or authorization from EPA is a time-consuming and resource intensive process. It often takes 18 months or longer for a state to receive approval from EPA to manage a delegated/authorized environmental program. If Mississippi loses a delegated/authorized program, it will have to expend significant resources, time, and money if it seeks to restore a lapsed delegation/authorization, rather than continuing to invest these resources in the maintenance of existing delegations/authorizations.

## **VII. Close**

I apologize for the length of this reply to your February 18, 2005, letter but, as you can now appreciate, it was necessary to provide the level of detail you requested. Beyond the detail, however, I must now address another, and very significant, aspect of the proposal to defund MDEQ and revert to EPA those federal programs that have been very successfully and responsibly administered by MDEQ for many years. From newspaper articles and other reports I have gotten very recently, it appears that some legislators contend that the MDEQ budget debate is really about "duplication of services," and that if EPA takes over all the functions addressed above, public and private regulated entities in Mississippi will continue to realize the same level of program implementation that MDEQ is now providing, and all "for free." Such statements are irresponsible and misrepresent the reality that EPA and all of our state co-regulators, such as MDEQ, strive constantly to maximize our partnership and minimize overlap in actual program activities so as to achieve the most efficient and effective implementation of federal and state environmental programs we can possibly attain.

Moreover, EPA does not currently have staff resources that could fill the void that will be created if MDEQ's budget is decimated. Nor is it likely that additional resources will be available for this purpose in the near future. While EPA is very concerned about protecting the environment in Mississippi, it will be difficult to accomplish this goal without the State as a partner. It is thus very likely that negative environmental consequences will result from severe cuts to MDEQ's budget.

For over three decades, the State of Mississippi has distinguished itself as a national leader in obtaining, and maintaining, authority to implement EPA programs at the state level. In several cases, such as CAA Title V and UST, Mississippi was the very first state to be approved to administer these major federal programs. I appreciate these accomplishments much more than most because it was my privilege to serve as Executive Director of MDEQ when these successes occurred.

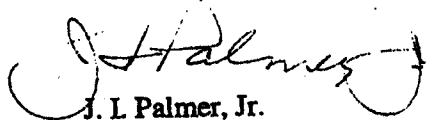
Just one example, and a major one at that, of the value to Mississippi to keep MDEQ adequately funded and fully delegated/authorized to administer EPA programs occurred just last year when MDEQ successfully mounted its case to designate DeSoto County as an attainment area for the new, national ambient air quality standard for ground level ozone. Without MDEQ, this would not have happened, and the economic

development consequences in one of Mississippi's fastest growing regions would have been severe.

My point, Governor Barbour, is that losing MDEQ's ability to maintain its federally approved environmental programs would be a huge blow to the environment, public health, and economic well being of Mississippi. Hopefully, this will not happen.

I will be happy to further discuss anything I have said here with you, personally, at your convenience.

Sincerely,

  
J. L. Palmer, Jr.  
Regional Administrator

cc: Honorable Stephen Johnson, Acting Administrator  
Ann Klee, General Counsel  
Charles H. Chisolm, Executive Director, MDEQ

**Johnson, Belinda**

---

**From:** Lockett, Laurel <llockett@carltonfields.com>  
**Sent:** Monday, October 2, 2017 1:40 PM  
**To:** Bonner, Brenda  
**Subject:** Briefing Form - EPA

Brenda – BASF is available to meet with Mr. Glenn either Nov. 7 or 8 in Atlanta. Due to the travel schedules of the various BASF folks who will be attending, we'd like to suggest either meeting over lunch or a very early afternoon meeting, if that is possible. We will get you the form shortly. Pls confirm the date and time as soon as you can. Many thanks for your help!

**CARLTON  
FIELDS**

---

**Laurel Lockett**  
Attorney at Law

4221 W. Boy Scout Blvd., Ste. 1000  
Tampa, Florida 33607-5780  
Direct: 813.229.4139 | Fax: 813.229.4133

[llockett@carltonfields.com](mailto:llockett@carltonfields.com) | [www.carltonfields.com](http://www.carltonfields.com)  
[bio](#) | [vcard](#)

**From:** Bonner, Brenda [mailto:Bonner.Brenda@epa.gov]  
**Sent:** Friday, September 29, 2017 4:25 PM  
**To:** Lockett, Laurel  
**Subject:** Briefing Form - EPA

Please complete and return to me ASAP.

**Brenda B. Bonner**  
*Executive Assistant to*  
*Trey Glenn, Regional Administrator*  
*U.S. Environmental Protection Agency, Region 4*  
*61 Forsyth Street, SW, Atlanta, Georgia 30303-8960*  
*(404) 562-8348; Fax (404) 562-9661*

**November 13, 2017**

**Monday**

**8:30 AM - 9:30 AM**

**Meeting with Hubzone Business - OneStop -- 4800 Division Ave Birmingham, AL 35222**

**11:18 AM - 1:26 PM**

**Flight Information ~ to Washington, DC: Flight departs @ 10:18 Central Time -- Birmingham Shuttlesworth (Birmingham, AL) to Ronald Reagan (Washington, DC)  
American Airlines Flight 5608**

**Departure: 10:18 am (Central Time)**

**Arrival: 1;26 pm (Eastern Time)**

**Seat: 06D**

**Confirmation: CYVIUE**

**1:30 PM - 2:30 PM**

**RCRD Staff Meeting -- 10B (10T65)**

**Meetings that fall on a holiday will be rescheduled for the next business day.**

**2:15 PM - 2:45 PM**

**Meeting: Pascagoula, MS Mayor -- Administrator's Office**

**3:30 PM - 4:30 PM**

**Briefing: BFGoodrich Proposed Remedy Briefing -- Alm Room**

**For those dialing in:**

**866.299.3188**

**Code: (b)(6) personal**

**NICK TO INITIATE/ENTER: Pin (b)(6) erso**

**4:00 PM - 5:00 PM**

**11/14 HEC/HAC Hearing In-Person Pre-Brief -- DCRoomARN3428/OCIR**

**Call in:**

**Number: 1-866-299-3188**

**Code: (b)(6) personal**

**In- Person Pre-Brief for 11/14 Hearing before the Energy and Commerce**

**November 13, 2017 Continued**

**Monday**

Committee and Member briefing before the House Appropriations Committee

**5:00 PM - 5:30 PM**

Hotel Check-in -- Mayflower Hotel 1127 Connecticut Ave NW Washington DC 20036  
Telephone Number: (202) 347-3000

Confirmation Number: 80307151

**November 14, 2017**

**Tuesday**

**9:15 AM - 9:45 AM**

Depart EPA for Rayburn House Office Building -- EPA HQ Courtyard

**Passenger Information**

- Name: AARON RINGLE/DAA
- Number: 2025647930
- Pickup Time: 2017-11-14 09:15:00.0
- Pickup Location: COURTYARD
- Drop-Off Location: DIRKSEN SENATE OFFICE BLDGE:

**Vehicle Information**

- Tag: G431598K
- Vehicle Type: 15 PASS VAN
- Make : CHEVROLET
- Model : G3500
- Color : WHITE

**10:00 AM - 12:30 PM**

FW: Energy and Commerce Hearing with R2/R4/R6 -- 2123 Rayburn House Office Building (To be confirmed)

-----Original Appointment-----

**From:** Rodrick, Christian

**Sent:** Tuesday, November 07, 2017 2:18 PM

**To:** Rodrick, Christian; Ringel, Aaron; Walsh, Ed; Lopez, Peter; Glenn, Trey; Coleman, Sam; Gray, David

Ashbee, Blake

8/21/2018 2:39 PM

**November 14, 2017 Continued**

**Tuesday**

**Subject:** Energy and Commerce Hearing with R2/R4/R6  
**When:** Tuesday, November 14, 2017 10:00 AM-12:30 PM (UTC-05:00)  
Eastern Time (US & Canada).  
**Where:** 2123 Rayburn House Office Building (To be confirmed)

Energy and Commerce Hearing on Emergency Management and Disaster  
Recovery

**2:00 PM - 3:00 PM**

**FW:** House Appropriations Committee Briefing with R2/R4/R6 and OLEM -- 2007 Rayburn House Office  
Building

-----Original Appointment-----

**From:** Walsh, Ed  
**Sent:** Tuesday, November 07, 2017 2:38 PM  
**To:** Walsh, Ed; Breen, Barry; Lopez, Peter; Glenn, Trey; Coleman, Sam;  
Ringel, Aaron; Rodrick, Christian; Greaves, Holly  
**Cc:** Lyons, Troy; Wise, Allison; Gray, David  
**Subject:** House Appropriations Committee Briefing with R2/R4/R6 and  
OLEM  
**When:** Tuesday, November 14, 2017 2:00 PM-3:00 PM (UTC-05:00)  
Eastern Time (US & Canada).  
**Where:** 2007 Rayburn House Office Building

House Appropriations Committee Briefing on Emergency Management  
and Disaster Recovery

**November 15, 2017**

**Wednesday**

**10:00 AM - 10:30 AM**

**Check-out Hotel**

**11:00 AM - 11:00 AM**

**Hill Visits:** Senator Shelby, Richard -- 304 Russel Senate Office Building, Washington DC 20510 (202)  
224-5744

**November 15, 2017 Continued****Wednesday****11:45 AM - 12:15 PM**

Hill Visits: Senator Cochran, Thad -- 113 Dirksen Senate Office Building, Washington DC 20510 (202) 224-5054

**2:00 PM - 2:30 PM**

Hill Visits: Congressman Thompson, Bennie -- 2466 Rayburn 45 Independence Ave SW Washington DC 20515 (202) 225-5876

**4:57 PM - 6:02 PM**

Flight Information - DC to Birmingham -- Ronald Reagan (Washington, DC) to Birmingham-Shuttlesworth (Birmingham, AL)  
American Airlines Flight 5573

Depart: 4:57 pm (Eastern)

Arrive: 6:02 pm (Central)

Seat: not assigned

Confirmation Number: CYVIUE

**November 16, 2017****Thursday****10:00 AM - 5:30 PM**

Manufacture Alabama Environmental Conference (This meeting starts at 9 am Central) -- The Westin Birmingham, 2221 Arrington Jr. Blvd North Birmingham AL 35203 (Medical Forum Building, 3rd Floor Room H)

Parking is available in the Sheraton Parking Deck

**Draft Agenda**

9:00 am Welcome/Manufacture Alabama Update – Mike Conlon, Environmental Chair

9:10 am EPA Update – R4 RA Trey Glenn (30 mins + 5 mins Q&A)

9:50 am ADEM Update – Lance LeFleur, ADEM Director

10:30 am Speaker TBA

11:10 am Break/View Exhibits

11:30 am Speaker TBA

12:15 pm Lunch/View Exhibits

1:15 pm Speaker TBA

**November 16, 2017 Continued**

**Thursday**

2:00 pm Speaker TBA

2:50 pm Break/View Exhibits

3:10 pm Regulatory Agency Updates & Enforcement Trends  
Phil Davis, Land Division

Glenda Dean, Water Division

Ron Gore, Air Division

4:15 pm Closing Comments – Mike Conlon, Environmental Chair

**3:00 PM - 3:45 PM**

**OCIR Weekly Regional Call -- 3428-WJCN**

**Call in #: 1-866-299-3188**

Passcode: (b)(6) personal  
privacy

# November 20, 2017 - November 26, 2017

November 2017						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December 2017						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

## Monday, November 20

- 9:00am - 9:30am Prebrief: CAA Oil & Gas Compliance (R4's Conference Room) - Ashbee, Blake
- 9:30am - 10:00am Phone Discussion: Trey Glenn and Aaron Keatley (Trey will call Aaron: (502) 782-6676) - Glenn, Trey
- 10:00am - 10:30am BF Goodrich Check-in (RA's Conference Room) - Glenn, Trey
- 1:30pm - 2:00pm Lake Talquin Report (RA's Small Board Room) - Glenn, Trey
- 2:00pm - 3:00pm Briefing - DeKalb County Consent Decree (RA's Boardroom) - Glenn, Trey
- 2:00pm - 3:00pm RCRD Staff Meeting (10B (10T65)) - Ricks-Sinquefield, Debra ☉
- 3:00pm - 3:30pm Grenada Briefing - Call in Number (866) 299-3188 (b)(6) personal (RA's Conference Room (Updated Briefing Sheet attached)) - Glenn, Trey

## Tuesday, November 21

- 9:00am - 9:45am Introductory Meeting: Trey Glenn & Traylor Champion (Georgia-Pacific) (Sam Nunn Atlanta Federal Center 61 Forsyth St SW Atlanta GA 30303 (14th Floor - RA's Conference Room)) -
- 9:45am - 10:10am NAGE Briefing (RA's Conference Room) - Ashbee, Blake
- 10:15am - 11:00am Pre-brief for the Everglades Restoration Strategies Meeting (RA's Conference Room (Documents added)) -
- 11:15am - 11:30am Copy: Briefing: BFGoodrich (Alm Room) - Adm14Pruitt, Scott
- 11:35am - 12:00pm Discussion w/Alan Farmer: Section Chief Position (Blake's Office) - Ashbee, Blake
- 1:00pm - 1:30pm CIMEK Discussion call-in #: (404) 562-9978 code: (b)(6)
- 2:20pm - 3:00pm General Discussion - Field Presence Exercise Review (Anne's Office) - Heard, Anne

## Wednesday, November 22

## Thursday, November 23

### THANKSGIVING

- 9:00am - 11:00am Deputy Team Meeting (To Be Determined) - Mundrick, Doug ☉

## Friday, November 24

- 9:00am - Peopleplus approval day ☉

## Saturday, November 25

## Sunday, November 26

Privileged – Confidential – Deliberative – Exemption 5 withheld

**Briefing Sheet for Rockwell-Grenada NPL Listing Meeting with the RA November 20, 2017**

## Official Meeting/Briefing Request for the RA / DRA

RA Use Only: ☐ Accepted ☐ Reject ☐ Pending

**\*\*\*DD/DDD Concurrence:** You must inform your Division's Director/Deputy Director that you are scheduling this meeting\*\*\*

**Date of Request:** 10/30/17

**Requestor:** César Zapata, WPD Deputy Director

**Phone No.:** 404-562-9744

**Name of Meeting:** DeKalb County Consent Decree Briefing

**Purpose of Meeting:** Brief the RA about DeKalb County Consent Decree before meeting with the County staff and CEO.

**Have you briefed your Director:** ☐ Yes ☒ No

**If No - When will you?:** Director has recused herself from this matter. Deputy Director is handling this issue.

Is the Meeting Date Sensitive? Yes x No <input type="checkbox"/>	Deadline Date: 11/09/17	
Meeting Date/Time Preference #1	Date: 11/07/17	Time: Any time
Meeting Date/Time Preference #2	Date: 11/06/17	Time: Any time
Meeting Date/Time Preference #3	Date: 11/09/17	Time: Any time

**Duration of Meeting:** 45 minutes to 1 hour

**Background:** The EPA/DOJ/GAEPD and DeKalb County entered into a Consent Decree on December 20, 2011, to address Sanitary Sewer Overflows (SSOs) throughout the county. Recent information provided to EPA and widely reported in the press have raised concerns regarding the County's compliance with the requirements of the Consent Decree to develop and implement a hydraulic model to ensure that there is adequate sewer capacity in the system before allowing new hook ups. On August, 2017, EPA sent DeKalb County a 308 information request letter to obtain information about the County's capacity program requirements under the Consent Decree. EPA and EPD requested a meeting with the County to discuss the County's response to the information request letter. In particular, the agenda will be a discussion of the following issues:

1. EPA/EPD are still unclear on how the documentation submitted in response to the 308 supports the conclusion that the CH2M Hill model is preliminary.
2. Will the County have a fully developed model by the Consent Decree deadline of 12/20/17?
3. How will the fully developed model be different from the preliminary model?
4. The documents submitted in response to question 15 do not appear to answer question 15 in the 308 response as to how the County proposes to define "Adequate Collection Capacity," "Adequate Transmission Capacity," and "Adequate Treatment Capacity."
5. Has the County completed in its submission of documents in response to the 308 information request?

The County's CEO asked for the RA to be present at the meeting.

**Have you included your briefing sheet:** ☐ Yes ☒ No – will provide NLT 48 hours before briefing

**Expectations from Meeting** (Please be specific: Are you looking for a decision, guidance?)

Present the RA a brief history of the case and current status. Obtain concurrence on next steps.

No. of Participants: 5	Names of Required Invitees:	Optional Invitees:
------------------------	-----------------------------	--------------------

	Bill Bush, César Zapata, Maurice Horsey, Mita Ghosh, Sara Janovitz	
--	--	--

**Requested Meeting Location:** RA's conference room

Will there be any type of computer presentation? Yes ☐ No ☒ X

***Requestor will be required to supply laptop computer AND cables***

# Official Meeting/Briefing Request for RA or DRA

Has your Division Director been briefed on this subject, and is he/she aware of your request to set up this meeting? Yes X No     

Date of Request: 11/14/17

Requestor: Mark Fite

Phone No.: 404.562.9740

Name of Meeting: Coordination of CAA Oil & Gas Compliance Assurance Activities with States

Purpose of Meeting: Brief RA on plan for coordination with states on Region 4 Clean Air Act (CAA) compliance assurance activities related to upstream oil and gas production activities.

Is the Meeting Date Sensitive? Yes <u>X</u> No <u>    </u>	Deadline Date: 10/31/17	
Meeting Date/Time Preference #1	Date: 11/21/17	Time: 1 PM

Duration of Meeting: 1 hour  
(for substantive meetings, schedule at least 1 hour)

## Background:

Region 4 has been tasked by the Administrator to coordinate with our state co-regulators on CAA compliance assurance activities in the upstream oil and gas sector by December 31, 2017. In July 2017, the Administrator wrote to oil and gas industry associations in Colorado and North Dakota about their concerns related to EPA's CAA compliance assurance activities in their industry. The Administrator committed that each region would coordinate with their counterpart state oil and gas regulators on compliance and enforcement to eliminate duplication of efforts. Region 4 engages in CAA compliance assurance activities in the Oil & Gas sector in 6 states under three National Enforcement Initiatives (NEIs).

## Expectations from Meeting (Please be specific: Are you looking for a decision, guidance?)

If you are looking for a decision, give a date by when this decision must be made.  
Seeking RA's feedback on proposed coordination plan and approval to move ahead with coordination activities by OECA's internal deadline of December 31, 2017.

No. of Participants: 12+ (It is very important that the RA's office is aware of how many and whom...no surprises; i.e., we were told 2 staff members and 10 show up)	Names of Required Invitees: Anne Heard Beverly Banister Scott Gordon Carol Kemker Beverly Spagg Anthony Toney Mark Fite	Optional Invitees: Kelly Sisario Dick Dubose Todd Russo Robert Bookman Ken Mitchell
---	--	--

Requested Meeting Location: RA conference room

Will there be any type of computer presentation? Yes      No X

## **Coordination with State Partners on Oil & Gas Compliance and Enforcement Briefing Sheet**

**Issue:** The Regions have been tasked by the Administrator to coordinate with our state co-regulators on Clean Air Act (CAA) compliance assurance activities in the upstream oil and gas sector.

### **Background:**

- In July 2017, the Administrator wrote to oil and gas industry associations in Colorado and North Dakota about their concerns related to EPA's CAA compliance assurance activities in their industry.
- The Administrator committed that each region would coordinate with their counterpart state oil and gas regulatory agencies on compliance and enforcement to eliminate duplication of efforts.
- Potential discussion topics include tools to promote compliance in the sector, joint planning, and a process for elevating disagreements that cannot be resolved in the normal course of business.
- OECA requested that initial discussions with states be completed by December 31, 2017, if possible.
- The Administrator also committed to convene a roundtable with representatives of the oil and gas sector and state regulatory agencies to discuss industry concerns and enhance communication. EPA is working with ECOS and IOGCC, and the first National roundtable is tentatively scheduled for January 23-24, 2018, in Denver.

### **Discussion:**

- Currently Region 4 is engaging in CAA compliance assurance activities in the upstream oil and gas sector under the Energy Extraction National Enforcement Initiative (NEI) at gas processing plants and well sites in AL, KY and MS.
- All eight Region 4 state environmental agencies have delegation for the CAA stationary source program, including planning, permitting and compliance assurance activities.
- AL, KY, and MS have Oil & Gas Boards that also provide some degree of regulatory oversight.
- Region 4 has a productive working relationship with our state environmental counterparts, as evidenced by the following ongoing efforts:
  - Facility specific coordination with the states on EPA compliance assurance activities.
  - Annual visits between state and EPA managers to discuss NEIs, inspection targets, etc.
- Region 4 has developed expertise in the use of advanced monitoring technologies such as the infrared camera to identify excess emissions and potential CAA violations.
- State capacity can be enhanced by Region 4 providing technical assistance in the following areas:
  - Use of advanced monitoring technology (only KY and Louisville have/share an infrared camera).
  - Training in some of the more complex CAA regulations, including Maximum Achievable Control Technology (MACT), New Source Performance Standards (NSPS) and Risk Management Plan (RMP).

### **Recommended Next Steps:**

- Between November and December 2017, implement the following communication strategy:
  - Division Director level meetings or conference calls (led by Beverly Banister and Scott Gordon) will be initiated the week of November 20<sup>th</sup> with each state environmental agency about the Energy Extraction NEI as well as the other NEIs which intersect the Oil and Gas sector:
    - Air Toxics: Downstream at refineries and petroleum storage terminals (AL, GA, MS, SC, and TN);
    - Chemical Accident Risk Reduction (CARR): Upstream at gas processing sites and downstream at refineries (AL, KY, MS and TN).
  - Face-to-face or VTC meetings, led by the Regional Administrator, about Energy Extraction NEI activities with key gas producing states (AL, KY, and MS). Invite representatives from both the environmental agencies and the oil and gas boards. Initiate the week of December 4<sup>th</sup>.



**Everglades Water Quality  
Restoration Strategies**

**Principals Meeting #10  
November 28, 2017**

**Briefing for  
Regional Administrator Trey Glenn**

# Judge Gold Litigation – Restoration Strategies

- 2003 to 2010 - Miccosukee Tribe of Indians and Friends of the Everglades (FOE) litigation over Everglades Forever Act and aspects of Florida's Phosphorus Rule as new or revised Water Quality Standards. Multiple orders and determinations.
- 2010 - Potential Contempt Order required EPA to issue Amended Determination identifying remedies, schedules, funding and draft permits with effluent limits based on the numeric phosphorus criterion to fully restore the Everglades.
- 2010 - EPA filed Amended Determination which resulted in further negotiations with South Florida Water Management District and FDEP over choice of remedies and timing.
- 2012 - Governor Scott announced Restoration Strategies Agreement.
- 2012 - EPA signed Restoration Strategies Agreement with FDEP, FDEP issued new NPDES permit, and FDEP signed Consent Order with the SFWMD.

# Restoration Strategies Implementation Vehicles

- Clean Water Act NPDES Permit – reissued by FDEP September 2017
  - Water Quality Based Effluent Limit (WQBEL) effective immediately upon 2012 issuance of the permit
  - Incorporates \$80M projects and deadlines to achieve the WQBEL
  - WQBEL and project implementation directly enforceable by EPA
- State Enforcement Order on Consent - 2012
  - Issued by FDEP to SFWMD
  - Contains projects and deadlines (2012-2024) for achieving the WQBEL
  - Provides for weekly reporting to EPA on STA performance
  - Requires SFWMD to implement a science plan to meet WQBEL at all 5 STAs in consultation with EPA and other federal technical representatives
- Framework Agreement Between EPA and FDEP - 2012
  - Principals will meet every 6 months
  - Requires semi-annual scientific review and science plan

## Meeting Purpose and Objective

- Discuss topics required by the Consent Order and Framework Agreement

*"The Regional Administrator, USEPA Region IV, and the Secretary of FDEP (Principals), and appropriate staff as needed, shall meet twice annually to discuss Everglades water quality conditions and progress toward attainment of water quality standards until each of the STAs meets the WQBEL necessary to meet water quality standards for total phosphorus in the Everglades."*

Source: FDEP and USEPA. 2012. Everglades Water Quality Restoration Framework Agreement between U.S. Environmental Protection Agency, Region IV, and Florida Department of Environmental Protection. June 12, 2012.

# Required Discussion Topics

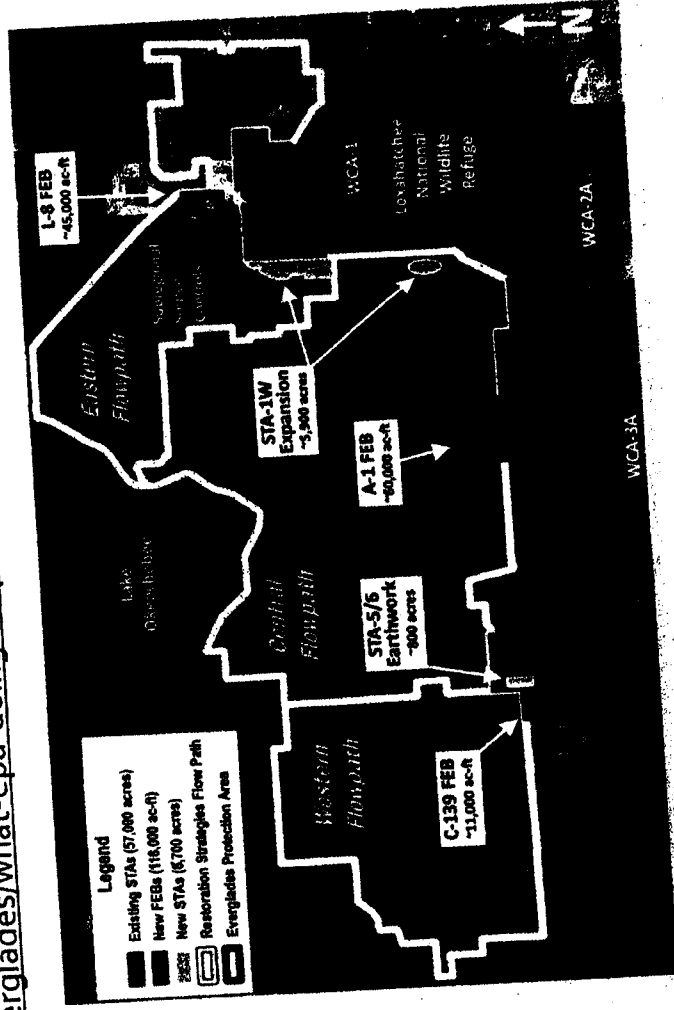
Agenda Item	Required Discussion Topics		
	Stormwater Treatment Area Performance	Science Plan	Downstream Monitoring
	"TP concentrations and loads entering each of the STAs"	"TP concentrations and loads discharged from...each of the STAs"	"TP concentrations and loads...diverted around each of the STAs"
		"results from research conducted in accordance with the Science Plan described below and in paragraph 13 of the NPDES Consent Order" <sup>B</sup>	"monitoring results for downstream monitoring (as described in paragraph 14 of the NPDES Consent Order)" <sup>A</sup>
			"progress of the SFWMD in achieving the milestones on the NPDES permits" <sup>C</sup>
			"enforcement matters as noted in section F"
			"resolution, as necessary, of any differing technical opinions of the science representatives of the USEPA, FDEP and the SFWMD"

**Notes:**

- A - "paragraph 14" appears to be a typo; downstream monitoring is described in paragraph 15  
B - "paragraph 13" appears to be a typo; the Science Plan is described in paragraph 14  
C - "permits" appears to be a typo; corrective actions and deadlines (aka milestones) are provided in the Consent Order

# Florida Water Quality Restoration Strategies

- 2012 EPA – Florida agreement on strategies to meet the 10 part per billion phosphorus criterion for water discharged into the Everglades from the Everglades Agricultural Area. Project cost about \$880M to Florida taxpayers. State NPDES permit and Consent Order.
- Construction Deadlines 2012 – 24. Projects on schedule. One of five STAs is meeting phosphorus limit.
- Semi-annual meetings: RA, FDEP Secretary, SFWMD Executive Director.
- Projects do not address Western Basins that discharge into Tribes' Federal Reservations
- <https://www.epa.gov/everglades/what-epa-doing-help-restore-everglades-water-quality>



# Restoration Strategies Schedule

about 35 milestones completed, 35 remain

2012-2016

2012-2016

- L-8 FEB (45,000 ac-ft)
- A-1 FEB (60,000 ac-ft)

Lake  
Okeechobee

STA-1W  
Exp. #1

C-139 FEB  
and STA-5/6  
Earthwork

A-1  
FEB

STA-1W  
Exp. #2

WCA-1

Loxahatchee  
National Wildlife  
Refuge

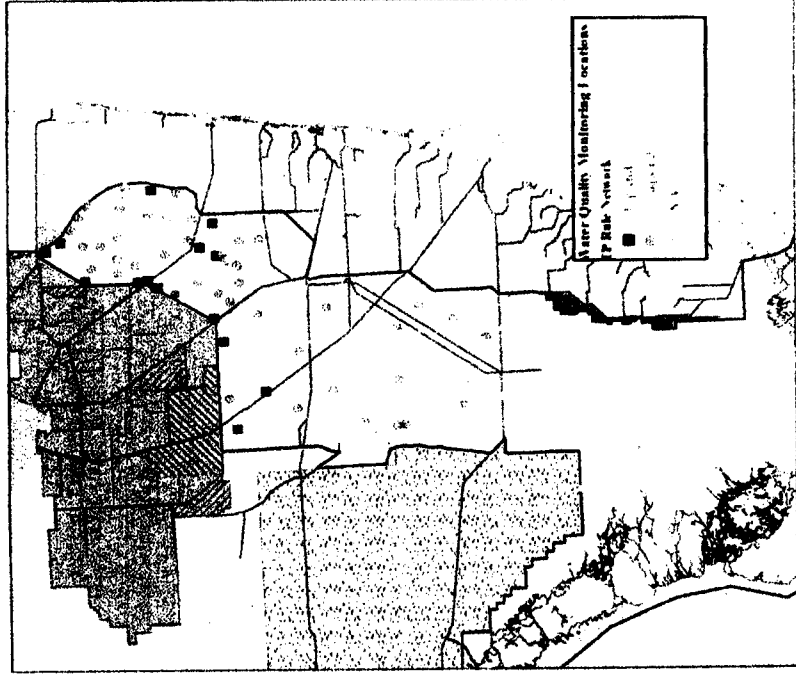
WCA-2A

WCA-3A

L-8  
FEB

# Everglades Numeric Phosphorus Criterion

- Intended to provide protection against **imbalances of aquatic flora and fauna** within the Everglades.
- Long-term **geometric mean of 10 parts per billion (ppb) Total Phosphorus (TP)**, measured within the Everglades marsh.
- Assessment methodology includes spatial (network of stations) and temporal variability.
- WQBEL applied at the discharge is equivalent to the 10 ppb criterion



## Water Quality Based Effluent Limit

Developed to be protective of the Everglades Protection Area and allow for the achievement of the Everglades phosphorus criterion (10 ppb) established in Rule 62-302.540, F.A.C.

### WQBEL [in permits issued by FDEP]

Total Phosphorus concentrations in the discharge from each STA "shall not exceed:

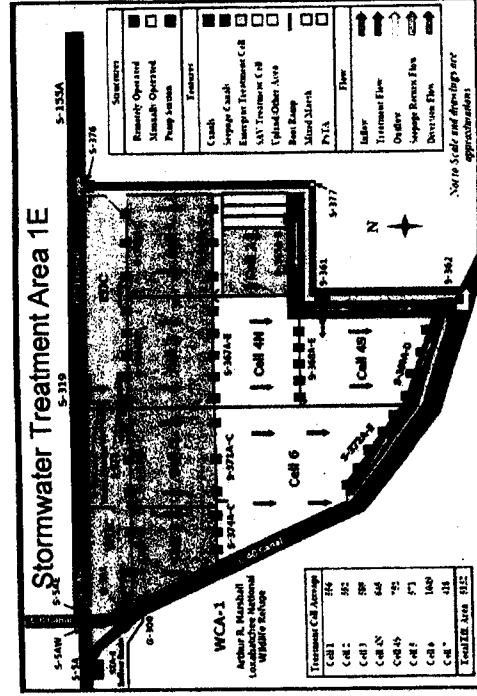
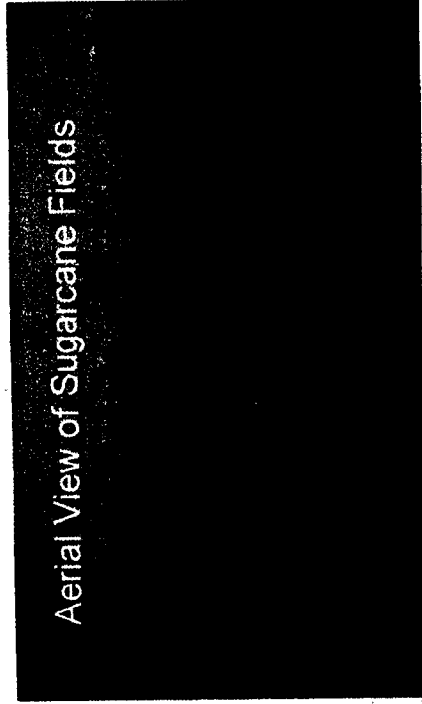
- 13 ppb as an annual flow-weighted mean (FWM) in more than 3 out of 5 water years on a rolling basis; and
- 19 ppb as an annual flow-weighted mean (AFWM) in any water year

# Everglades Phosphorus Control

- Required in Florida law and Moreno Federal Court Consent Decree
- Everglades Agricultural Area BMPs
  - 25% load reduction required
  - Removed 3100 tons (56%) since 1990s
- Post-BMP water goes into constructed treatment wetlands [Stormwater Treatment Areas (STAs)]
  - 57,000 acres
  - Natural processes retain phosphorus.
  - \$2 B investment since 1990
  - Removed 2300 metric tons since 1993
  - Inflows 61 – 164 ppb; Discharge 11 - 23 ppb
- Everglades water quality standard is 10 ppb
- Everglades background is 4 ppb

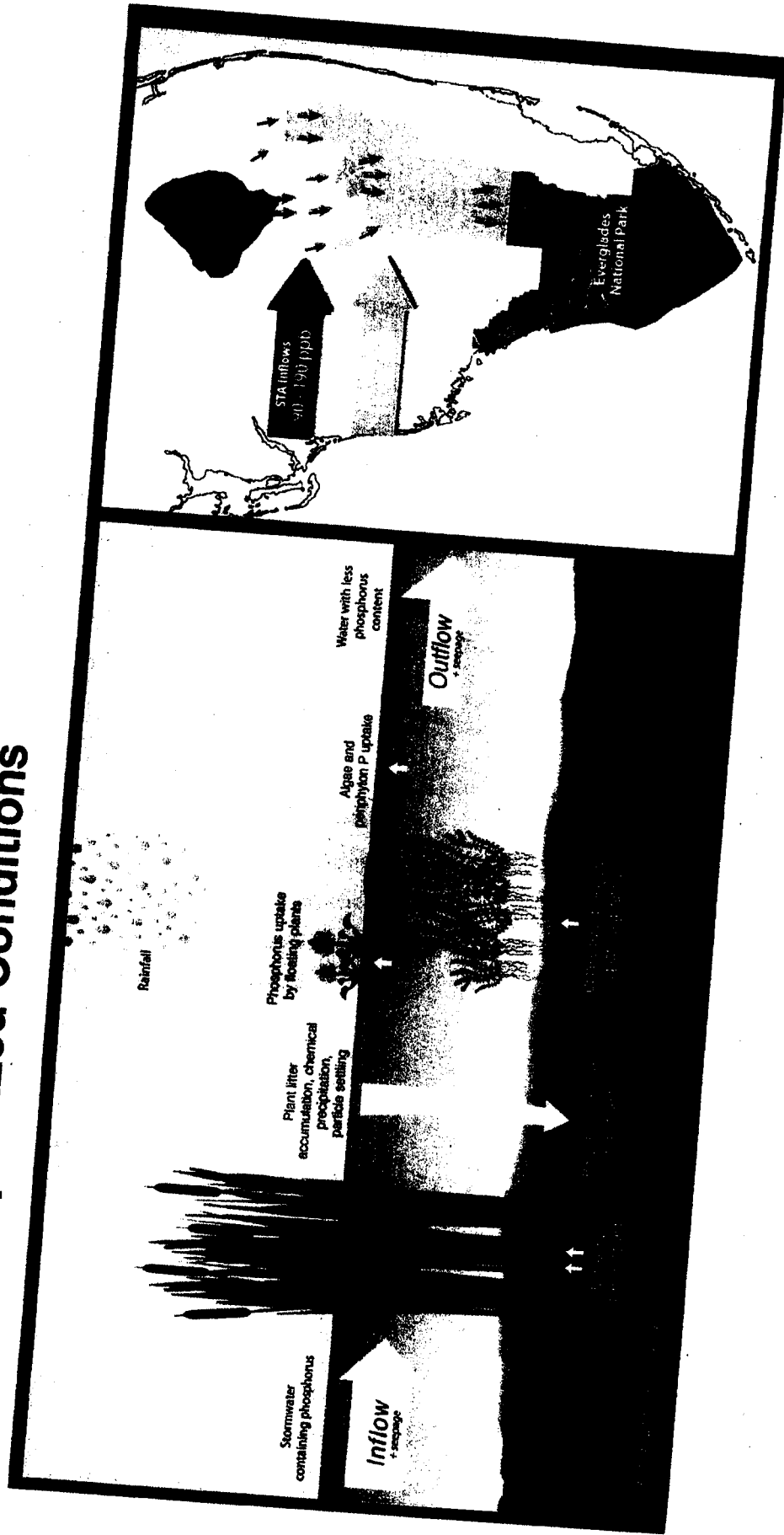
Best Management Practices (BMPs) are on-farm agricultural measures that reduce release of pollutants from a parcel of land

ppb = parts per billion or micrograms per liter.



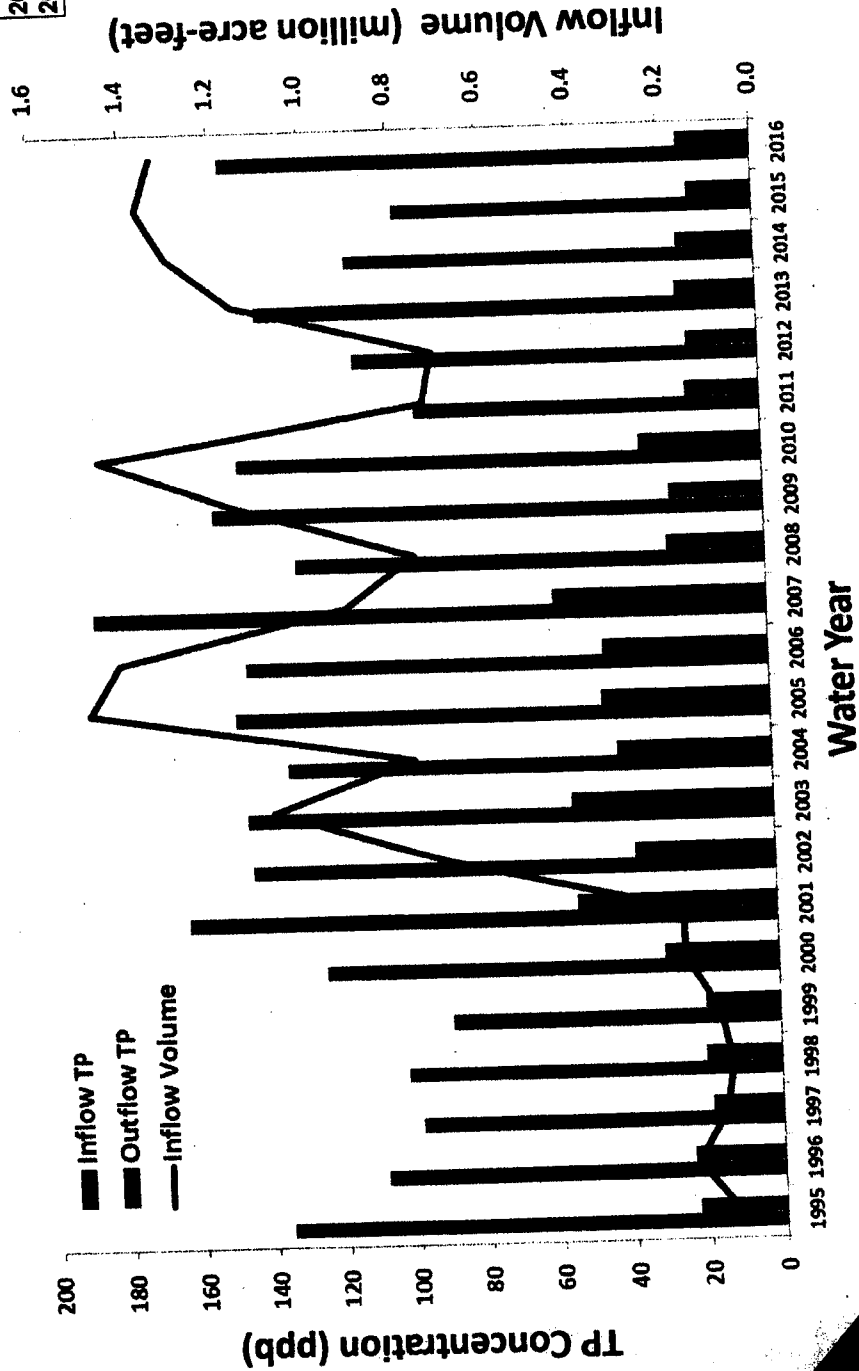
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Stormwater Treatment Areas  
Optimized Conditions



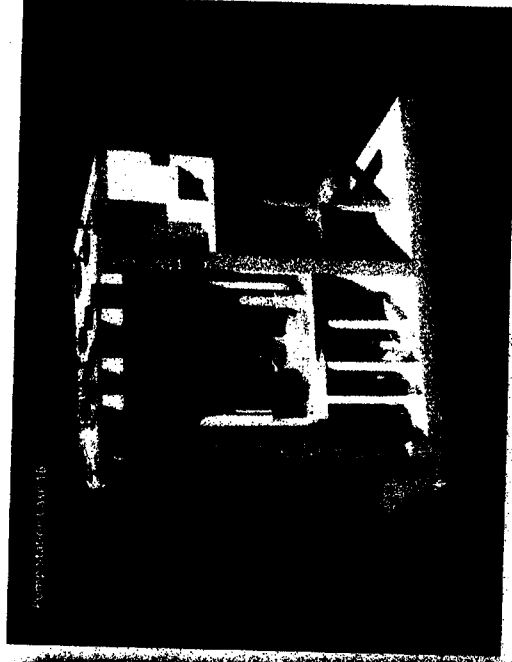
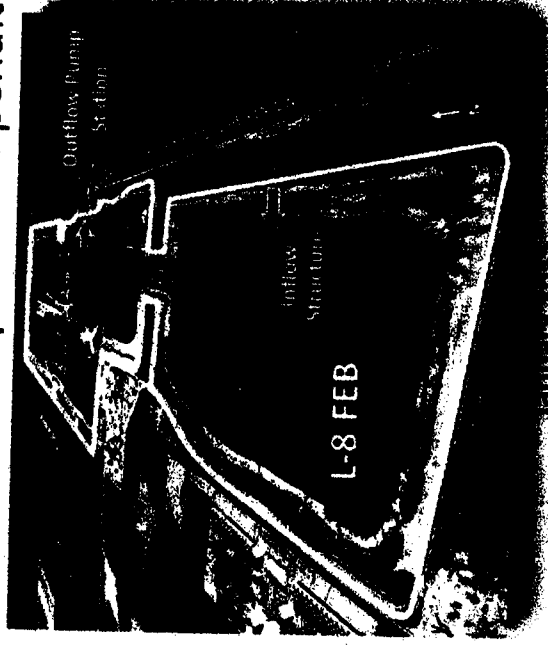
# STA Performance 1995-2016

Permitted STA Area
1994: 4,000 acres
1999: 9,000 acres
2000: 18,000 acres
2003: 35,000 acres
2004: 40,000 acres
2006: 45,000 acres
2012: 57,000 acres



## L-8 Flow Equalization Basin (FEB)

- Designed to improve performance of STA-1E and STA-1W
- 800 acres by 58 feet deep = ~ 45,000 acre-feet
- SFWMD missed construction completion deadline of December 31, 2016 due to pump issues. Completed summer 2017. FDEP may provide update on penalties (~\$200K) and options.



Pumps water from 3 depths

# Additional Slides

# Litigation History

1988 Lawsuit filed by DOJ against Florida  
(State allowing discharges causing harm to ENP &  
LNWR)

1992 US and FL Sign Consent Decree  
(FL to adopt TP criterion, STAs & ag BMP program)

1994 FL Adopts Everglades Forever Act (EFA)  
(Requires compliance with TP criterion by Dec 2003,  
BMPs & expanded STAs)

1995 US and State jointly move to amend CD to adopt EFA  
restoration numbers. Deadlines changed to 2006.

2003 - Court appoints Special Master to monitor Everglades  
Restoration under CD amid allegations state is not meeting  
requirements of CD and passage of EFA amendments.

2008 DOJ enters into Dispute Resolution  
(State in violation of CD; TP exceeded in Refuge)

2017 Technically, Dispute Resolution continues however no  
activity.

1999 EPA approves Miccosukee Tribe's 10 ppb TP criterion

2003 FL Amends EFA (Authorizes moderating provision to  
2016 & beyond)  
Tribe/FOE sue EPA over EFA (EPA found amendments to not  
be WQS)

2005 FL Adopts and EPA approves TP criterion (10 ppb and  
moderating provision  
Tribe/FOE sue EPA over criterion and moderating  
provision)

2008 Gold Remands Decision to EPA (EFA is change to WQS  
and moderating provision in TP rule not consistent with  
CWA)

2009 Tribe files motion/EPA issues "Determination"  
(Determination responds to Gold's 2008 order)

2010 Gold order requiring Amended Determination  
(Court unhappy about FDEP permits w/mod prov.)  
EPA issued Amended Determination September 2010.

2011 EPA objects to FDEP permits for STAs

2012 FDEP Issues final NPDES permit & Consent Order  
(Permit addresses EPA objections; CO includes  
schedule and milestones)

2017 SFWMD met 33 of 35 CO deadlines  
STA NPDES/EFA permits re-issued

## **Water Quality Requirements and Federal and State Laws Intended to Protect Species**

- The Endangered Species Act (ESA) and Migratory Bird Treaty Act (MBTA) currently affect how STAs are operated
- ESA and MBTA will affect how STAs and FEBs are operated in the future
- ESA and MBTA have the potential to impact achievement of Everglades STA water quality criteria (i.e. WQBEL)

# A-1 Flow Equalization Basin (FEB)

- Designed to improve performance of STA-2 and STA-3/4
- 15,000 acres by 4 feet deep = ~ 60,000 acre-feet of storage
- 21 miles of levee; 15 water control structures (10 solar powered)
- Inflow operations began August 2015

*Operational Summary: Aug. 1, 2015 - Apr. 30, 2017*

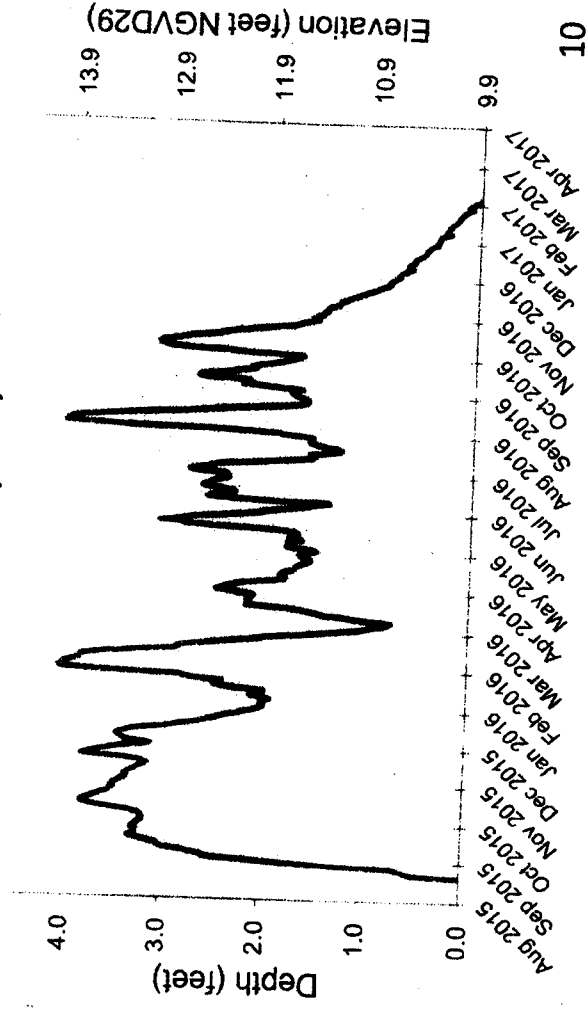
Inflow Volume  
542,000 acre-feet

Inflow P Conc.  
88 ppb

Outflow P Conc.  
20 ppb

P Load Reduction  
85%

contains provisional  
is subject to change



## Everglades Water Quality Restoration Strategies Principals Meeting #10

This is a required semi-annual update; there are no pending EPA decisions.

**Background:** There are 57,000 acres of constructed treatment wetlands (Stormwater Treatment Areas, STAs) that remove 80% of the total phosphorus (TP) before discharge into the Everglades. The initial STA requirements were in Florida's Everglades Forever Act and the Moreno Consent Decree. In 2012, EPA and Florida agreed on Water Quality Restoration Strategies. FDEP issued a CWA NPDES permit and Consent Order (CO) to the South Florida Water Management District (SFWMD). The CO projects (\$880 million) include STA expansions, water storage areas (flow equalization basins, FEBs) that release water to the STAs, and conveyance and infrastructure improvements. The permit establishes a Water Quality Based Effluent Limit (WQBEL) that is equivalent to the 10 part per billion (ppb) water quality standard, monitoring and research to confirm STA performance and progress, and an implementation schedule based on the CO. Under the permit, EPA has direct enforcement of the WQBEL and implementation schedule. A 2012 Framework Agreement signed by the EPA R4 Regional Administrator and the Florida Department of Environmental Protection (FDEP) Secretary states that they shall meet twice annually to discuss water quality progress under Restoration Strategies until each STA meets the WQBEL.

**Attendees:** *FDEP* - Drew Bartlett, Deputy Secretary for Ecosystem Restoration; Ed Smith, Director of Everglades Programs. *SFWMD* - Ernie Marks, Executive Director; Brian Accardo, General Counsel and Chief of Staff; Eva Vélez, Division Director, Everglades Policy and Coordination; Jeremy McBryan, Principal Engineer, Everglades Policy and Coordination. *EPA* - Trey Glenn, Regional Administrator; Mary Walker, Director, Water Protection Division (WPD); Cesar Zapata, Deputy Director, WPD; Dan Scheidt, Senior Scientist Everglades, WPD, Phil Mancusi-Ungaro, Office of Water Legal Support.

**CO Project Status:** *Eastern Flow Path* (CO deadline 2024) discharges directly into Loxahatchee National Wildlife Refuge (USFWS). Projects underway: water structure modifications, STA expansion. Deep FEB completed in 2017. *Central Flow Path* (CO deadline 2018) discharges toward Everglades National Park (NPS). The 16,000 acre shallow A-1 FEB was completed in 2015. *Western Flow Path* (CO deadline 2025) discharges toward the Miccosukee Tribe of Indians Federal Reservation. Project status: FEB design to be initiated 2018.

**Agenda items:** *STA performance* (The STAs performed well during water year 2017 (May 2016-April 2017), STA 2 and 3/4 are approaching the WQBEL, STA3/4 annual outflow of 11 ppb is best ever. Extremely wet conditions during 2017 and hurricane Irma resulted in higher TP at STA discharges.); *science plan* to improve STA performance (9 studies ongoing, 6 technical reports); *downstream monitoring* to track phosphorus impacts in the Everglades (TP controls are working, impacts remain but are not expanding near STA discharges); *Consent Order milestone report* (35 CO milestones completed; all projects are on track or ahead of schedule); *enforcement matters* (SFWMD missed a 12/31/2016 CO deadline for the L8 FEB due to issues with a custom pump. FDEP fined SFWMD \$1000/day. FDEP may provide an update.); *differing opinions* of the technical representatives (none). The 22<sup>nd</sup> Technical Representatives meeting is November 20, 2017.

**Other Potential Issues:** a) *Miccosukee Tribe's draft flow criteria as CWA Water Quality Standard.* FDEP, SFWMD and Army Corps provided informal comments. The Tribe is considering options. b) *Endangered Species.* SFWMD may reiterate a concern about FEB/STA operational constraints due to endangered or migratory bird nesting. SFWMD is discussing with USFWS.

**Contacts:** César Zapata 404-562-9744 or Dan Scheidt 706-676-0411.

**United States Environmental Protection Agency, Region IV  
Florida Department of Environmental Protection  
Everglades Water Quality Restoration Strategies  
Framework Agreement Principals Meeting #10  
November 28, 2017 9:00 AM**

**United States Environmental Protection Agency, Region IV  
Atlanta, GA**

**Call-in number:      Passcode:  
Webmeeting:**

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**Agenda**

- 1. Welcome and Introductions (USEPA/FDEP)**
- 2. Background and History (FDEP/SFWMD)**
- 3. Stormwater Treatment Area Performance (SFWMD)**
- 4. Stormwater Treatment Area Science Plan (SFWMD)**
- 5. Downstream Monitoring (SFWMD)**
- 6. Consent Order Milestone Report (SFWMD)**
- 7. Enforcement Matters (FDEP)**
- 8. Differing Opinions of the Technical Representatives (USEPA/FDEP/SFWMD)**
- 9. Other Topics/Miscellaneous (USEPA/FDEP/SFWMD)**

	Water					Cross-Program									
	Core Surface Water Quality Program		Sustainability		Tribal Coordination		Congressional Affairs & International Relations		Public Affairs		Multi-Media Technical Services/Analyses				
ASHBEE, BLAKE MANNING							0.33	0.33							0.99
BERRIOS, ISA L					1.00										1.00
BONNER, BRENDA B.															1.00
BURNS, MICHAEL W	0.50		0.50							1.00					1.00
GLENN, ONIS III													1.00		1.00
HEARD, VALERIA A.															1.00
JENKINS, BRANDI N.							0.25	0.25					0.25		1.00
JOHNSON, BELUNDA							0.25	0.25					1.00		1.00
JONES-JOHNSON, SHEA D.															1.00
MOURA, RAFAELA			1.00												1.00
OLIVER, PRISCILLA										1.00					1.00
TAYLOR, DAWN C.											1.00				1.00

## Functions

The Function list below has been populated into the Tool.

Category	Function	Description
Air	Core Air Quality Program	Administration of state and Tribal program grants, permitting of major and minor stationary sources of conventional air pollutants, conducting air quality modeling and assessments and implementing the National Emission Standards for Hazardous Air Pollutants program (i.e., Air Toxics, Radiation). Includes air monitoring work, indoor air and radiation.
Air	State Implementation Plans (SIPs)	Development of air quality State Implementation Plans to attain and maintain the National Ambient Air Quality Standards (NAAQS).
Air	Air Inspections & Enforcement	Inspections & other compliance monitoring activities. Coordinating enforcement and compliance assistance activities with states and direct implementation for non-delegated programs.
Air	Risk Management Programs (112r)	Working with state and local partners to assist and ensure covered facilities develop Risk Management Programs (112r).
RCRA	RCRA Permitting & Corrective Action (Direct Implementation)	Permitting of hazardous waste treatment, storage and disposal facilities. Providing grant funding to help states implement authorized hazardous waste programs.
RCRA	RCRA State Program Development & Oversight	Development of program delegation for state hazardous waste programs and assistance to Tribes. Carrying out non-delegated waste management programs (other than permitting and corrective action).
RCRA	RCRA Inspections & Enforcement	Inspections and other compliance monitoring activities. Coordinating enforcement and compliance assistance activities with states and direct implementation for non-delegated programs.
RCRA	RCRA Municipal Solid Waste & Sustainable Materials Management	Working with public and private partners to use and reuse materials. Coordinating with states to implement effective municipal solid waste and non-hazardous material management programs.
RCRA	Underground Storage Tanks/Leaking Underground Storage Tanks	Implementing the UST/LUST programs by conducting inspections and other compliance monitoring activities. Coordinating enforcement activities with and providing grants to states. Conducting direct implementation for non-delegated programs, including on tribal lands.
Superfund	Brownfields	All BF grant activity including Revolving Loan Fund, assessment grants, targeted assessments and 128A. State program development and job training grants.

Superfund	Emergency Planning & Community Right-to-Know Reporting	Reporting function associated with EPCRA.
Superfund	Emergency Planning, Emergency Response & Preparedness/Homeland Security	Classic emergency response and time-critical and non-time critical removals. Emergency planners. Response Support Corps Management. Core ER, Hazardous Waste Spill Line Management, Incident Management Team and all Homeland Security functions.
Superfund	Superfund Community Involvement	Superfund community involvement at NPL and non-NPL private and federal facilities and removal sites.
Superfund	Federal Facilities (Superfund)	Coordinating enforcement and compliance assistance activities for federal facilities. Coordinating compliance with Federal Facilities Agreements including remedial investigation, design and cleanup.
Superfund	Superfund Investigation & Remedial Program	Site Assessments, remedial investigation, cleanup, design, and cleanup of fund-lead sites. Coordinating with states on NPL and non-NPL private and federal facilities. Could also include programmatic management of contracts and grants.
Superfund	Superfund Enforcement	Oversight of responsible parties at PRP-Lead sites. Negotiating enforcement agreements with responsible parties and providing technical oversight and compliance monitoring activities related to design and cleanup. Also includes case development and negotiating cleanup plans and cost recovery.
Superfund	Oil Enforcement	The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) to prepare for and respond to discharges of oil and releases of hazardous substances. Includes enforcement activities for oil spills.
Water	Oil Spill Planning, Prevention & Response	Oil spill prevention program, including the Spill Prevention, Control, and Countermeasure (SPCC) and the Facility Response Plan (FRP) rules. Includes inspections and enforcement. Reviewing and approving water quality standards and state water quality assessments and impairment listing approval, tribal sanitation and safe water infrastructure. Development, review and approval of total maximum daily loads (TMDLs). This program also includes management of numerous water grant programs, including State Revolving Funds. Could also include programmatic management of contracts and grants. Management and oversight of the National Estuary Program, including funding, guidance and technical assistance. This does NOT include work conducted under the category "Geographic Programs." Includes watersheds work.
Water	Core Surface Water Quality Program	
Water	Groundwater/Safe Drinking Water Protection	Implementing the SDWA program; managing grants and providing technical and compliance assistance. Implementation of the Underground Injection Control Program.

Water	Groundwater/Safe Drinking Water Act Enforcement	Enforcement of the Safe Drinking Water Act, including the Underground Injection Control Program.
Water	NPDES Permitting	Direct implementation of non-delegated programs, state program development, and oversight.
Water	CWA 404 Program	Working with federal agencies, states, and tribes to on implementation of CWA 404 program to regulate dredged and fill material into waters of the U.S., including wetlands. Conducting technical assistance and evaluates permit applications.
Water	CWA 404/NPDES Enforcement	Enforcement of CWA 404 program and NPDES program.
Water	Ocean Dumping Program	Implementation of the Marine Protection, Research, and Sanctuaries Act Ocean Dumping Program.
OCSPP	Toxics	Inspections and other compliance monitoring activities. Coordinating enforcement and compliance assistance activities with states and direct implementation for non-delegated programs.
OCSPP	Pesticides	Implement the Federal Insecticide, Fungicide and Rodenticide Act, including enforcement.
OCSPP	Toxics Risk Reduction & Prevention/Toxic Release Inventory	Work with businesses to reduce pollution at its source; manage grants, technical assistance. Assist in compiling information for TRI and informing public about possible exposure to TRI chemicals.
Geographic	Geo Program: Chesapeake Bay	Specific staff focused on the Restoration of the Chesapeake Bay Program.
Geographic	Geo Program: Great Lakes	Specific staff focused on leading U.S. efforts to restore and maintain the Great Lakes watershed.
Geographic	Geo Program: Gulf of Mexico	Specific staff focused on the implementation of the Gulf of Mexico Program.
Geographic	Geo Program: NW Forest	Specific staff focused on the implementation of the NW Forest Plan.
Geographic	Geo Program: Puget Sound	Specific staff focused on the restoration and protection of the Puget Sound.
Geographic	Geo Program: SF Bay	Specific staff focused on the implementation of the Action Plan to Protect the SF Bay Delta and other activities.
Geographic	Geo Program: Southeast New England Program	Specific staff focused on the implementation of the Action Plan to Protect SW New England.
Geographic	Geo Program: Long Island Sound	Specific staff focused on the implementation of the Action Plan to Protect the Long Island Sound.
Geographic	Geo Program: Lake Champlain	Specific staff focused on the implementation of the Action Plan to Protect Lake Champlain.
Geographic	Geo Program: South Florida	Specific staff focused on the implementation of the South Florida Ecosystem Assessment Project.

Cross-Program	Legal Counsel (Not Civil or Criminal Enforcement)	Includes all legal counsel, not divided by media program.
Cross-Program	Legal Counsel: Civil Enforcement	Attorney civil enforcement work.
Cross-Program	Legal Counsel: Criminal Enforcement	Attorney criminal enforcement work.
Cross-Program	Criminal Enforcement	HQ function performed in the Regions.
Cross-Program	NEPA	National Environmental Policy Act activities including review of environmental impact statements.
Cross-Program	Sustainability	Specific staff devoted to cross-program sustainability activities and inter- and intra-agency coordinating functions.
Cross-Program	Tribal Coordination	Management of Indian General Assistance Program funds and tribal liaison.
Cross-Program	Children's Health	Specific staff devoted to cross-program children's health activities and inter- and intra-agency coordinating functions.
Cross-Program	Congressional Affairs & International Relations	Liaison to Congress, states and local governments and facilitating interactions with and visits by international partners.
Cross-Program	Public Affairs	Communications, including outreach and web content (not web development). Includes Environmental Education.
Cross-Program	Environmental Justice	Specific staff devoted to cross-program environmental justice activities and inter- and intra-agency coordinating functions.
Cross-Program	Multi-Media Inspections/Enforcement Investigations/Evaluations for OIG	This function ONLY includes those individuals doing multi-media inspections and multi-media enforcement/case development. Management of enforcement-related databases.
Cross-Program	EEO/Civil Rights	HQ function performed in the Regions.
Cross-Program	Multi-Media Technical Services/Analysis	Civil Rights and Equal Employment Opportunity Act work.
Cross-Program	Laboratory Services	Consultative and support technical and scientific services, including analysis, review and other support functions for a variety of media programs. Could include toxicologists, ecologists, hydrogeologists, and others. Does not include laboratory services.
Management	Contracts Management	Full range of analytical and field services performed in EPA laboratories. Includes organic and inorganic chemistry, microbiology and other analytical functions.
Management	Facilities & Operations	Contracting Officers, Procurement Specialists and others supporting the administrative side of acquisition function. Does not include programmatic project officers.
		Facility management and support, leasing support, building and facilities improvements.

Management	Fiscal Management	Guidance on the preparation and control of budget for programs; management of overall Regional budget.
Management	Grants Management & Interagency Agreements & Administration	Management of administrative aspects of R10 assistance agreements including grants and cooperative agreements (such as grants specialists and grant coordinators). Does not include programmatic project officers.
Management	Human Resources	Hiring, Training, Recruitment, Labor and Employee Relations, functions performed by Union Representatives, Benefits and Work-Life Programs.
Management	Health & Safety	Health and Safety program.
Management	Information Technology	IT infrastructure, applications, help desk, IT support, telecommunications, web support, GIS, IT security, network management.
Management	Information Management/FOIA/Records	FOIA, records, correspondence management.
Management	Planning	Coordinates regional strategic planning process.
Management	Administrative Support	Administrative support and executive assistants.
Management	RA/DRA	Regional Administrator and Deputy Regional Administrator only.

## Official Meeting/Briefing Request for the RA

DD/DDDD Concurrence \*\*\*You must check that your Division's Director/Deputy Director is aware that you are scheduling this meeting\*\*\*  
Date of Request: 11/30/2017

Requestor: James Webster, Chief, SFD ERRPB  
Phone No.: 2.8769

Name of Meeting: EPA/U.S. Coast Guard Memorandum of Agreement

Purpose of Meeting: Brief RA on the proposed revised MOA with the U.S. Coast Guard.

Is the Meeting Date Sensitive? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Deadline Date: Desire to complete prior to December 14.	
Meeting Date/Time Preference #1	Date: 12/5/17	Time: 2:00
Meeting Date/Time Preference #2	Date: 12/6/17	Time: 2:00
Meeting Date/Time Preference #3	Date: 12/7/17	Time: 2:00

Note: Briefing can be scheduled any time prior to December 14. Time of briefing OK any time after 9:00 a.m.

Duration of Meeting: 1 hour

### **Background:**

The EPA and U.S. Coast guard are in the process of amending their October 2013 MOA. The proposed MOA will retain the inland/coastal jurisdiction boundary but revise the response roles and responsibilities to remedy confusion as to response responsibilities in the coastal zone and address questions regarding consistency with the National Contingency Plan.

The MOA is signed by the Region 4 RA and the Commanders of U.S. Coast Guard Districts 5, 7, and 8.

**Expectations from Meeting** (Please be specific: Are you looking for a decision, guidance?)  
Approval to go forward with routing for signature.

No. of Participants: (It is very important that the RA's office is aware of how many and whom...no surprises; i.e., we were told 2 staff members and 10 show up)  3 – 5 depending on availability	Names of Required Invitees: James Webster Gary Andrew Tony Moore Jennifer Guillard	Optional Invitees: Franklin Hill (indicated that we can proceed in his absence if necessary)  Randall Chaffins
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Requested Meeting Location: RA Conference Room or the Regional Emergency Operations Center.

If you will have a computer presentation, you will need to save your presentation on the "F" Drive, under "My Documents." You will be able to login on the Conference Room laptop as you would your own computer and pull up your presentation.

# December 11, 2017 - December 17, 2017

December 2017						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

January 2018						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

## Monday, December 11

- 10:30am - 11:30am FW: R4 Cares & Shares CFC Event (Gary White Conference Rooms 9D & E) - Reese, Tondia
- 12:30pm - 1:00pm Discussion: Interim FTE Allocations (RA's Small Conference Room) - Glenn, Trey
- 1:30pm - 2:30pm RCRD Staff Meeting (10B (10T65)) - Ricks-Sinquefield, Debra
- 2:00pm - 4:00pm Meeting w/ Stakeholders (Bank of America Tower Building at 600 Peachtree St., NE) - Glenn, Trey

## Tuesday, December 12

- 9:00am - 9:30am Briefing: Delegation of Authority for Federal Plan requirements applicable to SSI sources to the NCDEQ and the
- 9:30am - 10:00am Region 4 Stormwater Enforcement Program and National Association of Home Builders Meeting Follow-up
- 10:00am - 11:00am BF Goodrich Prebrief (RA's Conference Room Callin Number (404) 562-9997 Code: (b)(6) Glenn, Trey
- 11:10am - 11:20am OGR Position (RA's Small Conference Room) - Glenn, Trey
- 11:30am - 12:00pm SO2 Designation Call with Mosiac (RA's Conference Room) - Ashbee, Blake
- 11:30am - 12:00pm Canceled: SO2 Designations Call with Mosiac (RA's Conference Room Call in Number (866) 299-3188 Code
- 1:00pm - 5:00pm Meeting with Stakeholders: BF Goodrich Call-in
- 4:41pm - 6:24pm Flight to D.C. Information (Atlanta Hartsfield
- 6:30pm - 6:45pm Hotel Information (JW Marriott 1331 Pennsylvania

## Wednesday, December 13

### Washington, DC

- 9:00am - 9:30am Meeting with Susan Bodine (Rm 3204-WJC South) - Glenn, Trey
- 9:30am - 10:00am Meeting w/ Blake Ashbee R4 Chief of Staff and Regional Administrator Trey Glenn (3426-A) - Richardson, RobinH
- 12:00pm - 1:00pm Troy/Ken Lunch - Lyons, Troy
- 1:45pm - 2:00pm FW: Meet with Region 4 RA Trey Glenn (Confirmed) (WJC-N 5400) - Wehrum, Bill
- 4:10pm - 6:22pm Flight to Atlanta Information (Ronald Regan Airport, Washington D.C)

## Thursday, December 14

- 9:00am - 10:00am Discussion: Interim FTE Allocations w/Directors Call-in Number (866) 299-3188 Code: (b)(6) RA's
- 10:00am - 10:45am Laboratory Enterprise Kaizen Project (RA's Conference Room) - Glenn, Trey
- 11:00am - 11:45am Briefing: FL 303(d) List Action (RA's Conference Room) - Glenn, Trey
- 11:50am - 12:20pm Dekalb County Check-in (RA's Conference Room) - Glenn, Trey
- 12:30pm - 1:00pm Clinch Powell Clean River Initiative MOU (RA's Conference Room) - Ashbee, Blake
- 1:00pm - 1:30pm Regional Science Program/State Engagement Pilot (RA's Conference Room) - Glenn, Trey
- 2:00pm - 4:00pm Emphasis Discussions (RA's Small Conference Room) - Glenn, Trey
- 3:00pm - 3:45pm OCIR Weekly Regional Call (3428-WJCN) -

## Friday, December 15

## Saturday, December 16

## Sunday, December 17

## **MEMORANDUM OF AGREEMENT**

Between

The Western North Carolina Regional Air Quality Agency  
and

The United States Environmental Protection Agency, Region 4

Sewage Sludge Incinerators Federal Plan Delegation

### **I. GENERAL**

- A. This Memorandum of Agreement (hereinafter MOA) defines policies, responsibilities, and procedures pursuant to 40 C.F.R. § 60.5045 and 40 C.F.R. Part 62, Subpart LLL (Federal Plan Requirements for Sewage Sludge Incineration Units), by which the Federal Plan Requirements for Sewage Sludge Incineration Units (Federal Plan) will be administered by both the Western North Carolina Regional Air Quality Agency (WNCRAQA) and the U.S. Environmental Protection Agency, Region 4 (EPA). This MOA will be maintained consistent with the Clean Air Act (hereinafter "Act") and its regulations. The provisions of this MOA include the terms, conditions, and the effective date of the delegation of the Federal Plan. This MOA shall serve as the mechanism for the transfer of authority to administer and enforce the Federal Plan to WNCRAQA. The delegation of the Federal Plan to WNCRAQA shall be in effect until there are no sewage sludge incinerator (SSI) facilities within the jurisdiction of the Federal Plan in Buncombe County and the City of Asheville, North Carolina, the EPA publishes an approval of an applicable State Plan submitted by the state of North Carolina, or the EPA withdraws delegation of the Federal Plan according to the provisions of this MOA, whichever occurs first.
- B. This MOA is entered into between the WNCRAQA and the EPA. In a letter dated February 7, 2017, the WNCRAQA requested from the EPA delegation of authority for the WNCRAQA to implement and enforce the Federal Plan. The geographic area covered by this MOA is Buncombe County and the City of Asheville. This MOA encompasses responsibilities of all agencies who will administer any part of the Federal Plan covered by this MOA.
- C. This MOA does not limit the EPA's authority to fulfill its oversight and enforcement responsibilities under the Act or contravene any provision of 40 C.F.R. Part 62, Subpart LLL or the EPA's other approvals and/or delegations under the Act.
- D. If the WNCRAQA does not properly administer or enforce the Federal Plan, the EPA may revoke all or part of this delegation.
- E. The delegation of the Federal Plan to WNCRAQA shall become effective upon authorized signature of both the WNCRAQA and the EPA.
- F. This MOA may be modified only after mutual consent of both parties for any purpose. Any revisions or modifications to this MOA must be in writing and must be signed by both the WNCRAQA and the EPA.

## **II. Policy Statement**

- A. Each party is responsible for ensuring that the obligations under 40 C.F.R. Part 62, Subpart LLL are met. Both parties agree to maintain a high level of communication, cooperation, and coordination between their respective staffs to assure successful and effective administration of the Federal Plan.
- B. The WNCRAQA shall have primary responsibility for:
  - 1. Administering and enforcing the Federal Plan in accordance with 40 C.F.R. Part 62, Subpart LLL, applicable State/local law, objectives of the Act, and this MOA.
  - 2. Making any changes to its administration and enforcement of the delegated Federal Plan necessitated by changes to the regulations comprising the Federal Plan.
  - 3. Sharing information with the EPA regarding administration and enforcement of the program.
- C. The EPA shall have responsibility for:
  - 1. Providing effective oversight of the Federal Plan to ensure consistency with 40 C.F.R. Part 62, Subpart LLL and this MOA, and to promote national consistency in implementation of the Act.
  - 2. Providing ongoing technical and other assistance on SSI matters as requested.
  - 3. Informing the WNCRAQA as soon as possible about the EPA's new regulations and any related litigation results or settlements, new Federal standards, implementation and enforcement information and related Federal policies, the effect of these new requirements, and the action needed by the WNCRAQA.
  - 4. Informing the WNCRAQA as soon as possible about the EPA's decision to revoke any or all of the authority granted to the WNCRAQA for delegation purposes.

## **III. Delegation of Authorities**

- A. By means of this MOA, the EPA delegates to the WNCRAQA the authority to implement and enforce the Federal Plan, with the exception of the seven authorities below which, pursuant to 40 C.F.R. § 62.16050, are not delegated to state, local, or tribal agencies. The EPA also retains authority to implement and enforce the Federal Plan.
- B. The following authorities are retained by the EPA pursuant to 40 C.F.R. § 62.16050(a)-(g):
  - 1. Approval of alternatives to the emission limits and standards in Tables 2 and 3 of the Federal Plan and operating limits established under 40 C.F.R. § 62.15965 or § 62.15985.
  - 2. Approval of major alternatives to test methods.
  - 3. Approval of major alternatives to monitoring.

4. Approval of major alternatives to recordkeeping and reporting.
5. The requirements in 40 C.F.R § 62.15965.
6. The requirements of 40 C.F.R. § 62.15945(b)(2).
7. Performance test and data reduction waivers under 40 C.F.R. § 60.8(b).

#### **IV. Program Administration and Enforcement**

##### **A. The WNCRAQA agrees to do the following:**

1. Enforce the Federal Plan in accordance with the provisions of 40 C.F.R. Part 62, Subpart LLL.
2. Take actions to ensure affected Buncombe County and City of Asheville facilities comply with the “operator training requirements” of the Federal Plan, 40 C.F.R. §§ 62.15920 through 62.15950.
3. Take actions to ensure facility compliance with the establishment of operating parameters for SSI units as stipulated in Table 4 of the Federal Plan
4. Take actions to ensure facility compliance with the reporting requirements for SSI units as stipulated in Table 6 of the Federal Plan.
5. Take actions to ensure final compliance with the compliance schedule of facilities as stipulated in Table 1 and 40 C.F.R. § 62.16025(b) of the Federal Plan.
6. Administer and oversee compliance reporting and recordkeeping requirements.
7. Administer and oversee performance testing and monitoring requirements.
8. Inspect all Sewage Sludge Incinerators in accordance with the current work plan developed pursuant to the Clean Air Act Stationary Source Compliance Monitoring Strategy (CMS), issued October 4, 2016, or any subsequent revisions, and report the minimum data requirements to the EPA via the Integrated Compliance Information System for air (ICIS-AIR) with a special emphasis on updating the facility compliance status.
9. Perform follow-up inspections or review of facility records to insure correction of violations discovered during routine inspections.
10. Address violations that meet the definition of “High Priority Violations,” (HPV) in accordance with the EPA’s Enforcement Response Policy identified in the “Timely and Appropriate Enforcement Response to High Priority Violations – Revised 2014,” issued August 25, 2014, or any subsequent revisions.
11. Address and report violations in ICIS-AIR consistent with the Guidance on Federally-Reportable Violations (FRV) for Clean Air Act Stationary Sources, issued September 23, 2014, or any subsequent revisions.

12. Submit reports to the EPA containing the information described in 40 C.F.R. §§ 60.25(e) and (f) on progress in Federal Plan enforcement on an annual basis commencing with the first full report period after delegation of the Federal Plan.
13. Notify the EPA when the WNCRAQA proposes to transfer all or part of the delegation to any other state and/or local agency and identify a new division of responsibilities among the agencies involved, with such transfer occurring only upon the EPA's approval.
14. If submitting information to the EPA that was obtained under a claim of confidentiality, submit that claim to the EPA when providing that information. Any information obtained from the WNCRAQA and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 C.F.R. Part 2.

B. The EPA agrees to do the following:

1. Expediently review and appropriately respond to all information submitted by the WNCRAQA.
2. Publish an approval notice in the Federal Register to incorporate the delegation of authority in 40 C.F.R. Part 62, Subpart II.
3. Provide technical support and assistance, and training opportunities for interpretation of national regulations.
4. Make reasonable efforts to communicate to the WNCRAQA when additional legal, technical, and financial resources may be necessary to implement new Clean Air Act Section 111(d) requirements as they become applicable.
5. Cooperate with the WNCRAQA by allowing appropriate flexibility when determining the most effective and expeditious means of implementing the EPA's policy and guidance.

C. Both the EPA and the WNCRAQA agree that:

1. The EPA will assess the WNCRAQA's administration of the Federal Plan on a continuing basis for consistency with 40 C.F.R. Part 62, Subpart LLL, Title V of the Act, New Source Review under the Act, New Source Performance Standards under the Act, and all other requirements of the Act. This assessment will be accomplished by the EPA review of information submitted by the WNCRAQA, permit overview, and compliance and enforcement overview.
  - a. On a continuing basis, the EPA will consider written comments that are received from regulated persons, the public, and Federal, State, and local agencies in assessing the WNCRAQA delegation of the Federal Plan. Copies of any comments received from such sources will be provided to the WNCRAQA within ten (10) working days of receipt.
  - b. The EPA may review the WNCRAQA program to implement and enforce the Federal Plan by examining relevant files and documents at the WNCRAQA offices. Program reviews will be conducted on an as needed basis and the EPA will give 30 calendar days' notice to the WNCRAQA prior to initiating the review.

- c. If the EPA determines that the WNCRAQA is not adequately administering or enforcing the Federal Plan, the EPA will notify the WNCRAQA of the determination as soon as possible and provide the reasons for the determination; the WNCRAQA and the EPA will then determine the process and time frame for correcting the deficiencies in an expeditious manner.
- d. The WNCRAQA agrees to allow the EPA access to all files and other requested information deemed necessary by the EPA to ensure management of the delegated Federal Plan is consistent with the EPA's policies, subject to the confidentiality provisions of this MOA.

**V. Reporting and Transmittal of Information**

- A. The WNCRAQA agrees to submit to the EPA the following information on the affected SSI facilities:

<u>Description</u>	<u>Frequency</u>
Copies of all air related permits for affected facilities.	Upon the EPA's request.
Emission reports submitted pursuant to WNCRAQA Code 17.0207.	Annually to the EPA's Emissions Inventory System pursuant to the EPA's Emissions Reporting Rule. <i>See</i> 80 FR 8787 (February 19, 2015). Upon request, individual facility files will be submitted to Region 4.
All facility full compliance evaluations.	Ongoing basis in ICIS-AIR as established under the current Information Collection Request (ICR) and any subsequent revisions. <sup>1</sup>
All legal documents related to enforcement actions.	Ongoing basis in ICIS-AIR as established under the current ICR and any subsequent revisions.
WNCRAQA review of stack tests.	All reviews of stack test will be reported to the EPA via ICIS-AIR.
Copies of annual compliance certifications and results of the WNCRAQA review of these certificates.	Upon the EPA's request.
Any information obtained or used in the administration of the Federal Plan.	Upon the EPA's request.
Summary report on progress in plan enforcement. Specifically, submit reports to the EPA containing the information described in 40 C.F.R. §§ 60.25(e) and (f) on progress	Annually (calendar year) basis to the EPA, commencing with the first full report period after delegation of the Federal Plan as described in 40 C.F.R. §§ 60.25(e) and (f).

<sup>1</sup> EPA's current ICR, titled "Air Stationary Source Compliance and Enforcement Information Reporting," was approved by the Office of Management and Budget on January 31, 2016. This ICR may be found at: <https://www.regulations.gov/document?D=EPA-HQ-OECA-2014-0523-0014>.

in Federal Plan enforcement on an annual basis commencing with the first full report period after delegation of the Federal Plan.	Reports shall be submitted to the Region 4 Air Enforcement and Toxics Branch Chief.
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B. The EPA agrees to submit the following information on the affected SSI facilities to the WNCRAQA:

<u>Description</u>	<u>Frequency</u>
Copies of any transmittal letters for Section 113 or 114 actions by the EPA, subject to the terms of 40 C.F.R. Part 2.	Within 5 working days of transmittal.
Any other relevant information, as requested by the WNCRAQA, needed to implement the delegated Federal Plan, subject to the terms of 40 C.F.R. Part 2.	Upon the WNCRAQA's request.

## VI. Signatures

For the United States,

United States Environmental Protection Agency, Region 4

By: \_\_\_\_\_  
Onis "Trey" Glenn, III  
Region 4 Administrator

Date: \_\_\_\_\_

For the Western North Carolina Regional Air Quality Agency

By: \_\_\_\_\_  
David A. Brigman  
Director

Date: \_\_\_\_\_

## Official Meeting/Briefing Request for the RA or DRA

Has your Division Director been briefed on this subject, and is she aware of your request to set up this meeting? Yes

Date of Request: November 17, 2017

Requestor: Jason Dressler

Phone No.: x2-9208

**Name of Meeting:** Delegation of authority for Federal Plan requirements applicable to Sewage Sludge Incineration (SSI) sources to the North Carolina Department of Environmental Quality (NCDEQ) and the Western North Carolina Regional Air Quality Agency (WNCRAQA).

**Purpose of Meeting:** Discuss the state and local air agencies' request for delegation of the Federal Plan and the purpose of the Memoranda of Agreement (MOAs).

Is the Meeting Date Sensitive? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Deadline Date: N/A	
Meeting Date/Time Preference #1	12/06/17	Anytime
Meeting Date/Time Preference #2	12/08/17	Anytime
Meeting Date/Time Preference #3	12/12/17	Anytime in the Morning

Duration of Meeting: 1 hour  
(for substantive meetings, schedule at least 1 hour)

**Background:** SSI sources in North Carolina are currently subject to the SSI Federal Plan. The NCDEQ submitted a formal request for delegation of the Federal Plan in December 2016, and the WNCRAQA similarly submitted a request in February 2017. MOAs that serve as the mechanism for transferring Federal Plan administration and enforcement authority have been developed.

**Expectations from Meeting:** Obtain the Regional Administrator's approval to send the MOAs to the NCDEQ and the WNCRAQA for signature.

No. of Participants: 10	Names of Required Invitees: Beverly Banister Carol Kemker Beverly Spagg Todd Russo Ken Mitchell Jason Dressler Mark Bloeth Valerie Nowell Gretchen Frizzell Brandon Cobb	Optional Invitees: Carrie Griffith Megan Arias
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Requested Meeting Location: Regional Administrator's Conference Room

Will there be any type of computer presentation? Yes ☒ No ☐

**Agenda for Regional Administrator**  
**Delegation of Federal Plan / Memoranda of Agreement Between EPA**  
**and the State of North Carolina and Western North Carolina**  
**December 12, 2017**

**Purpose:** Review the state and local air agency's requests for delegation of the Clean Air Act Section 129 Sewage Sludge Incinerator Federal Plan and associated Memoranda of Agreement (MOA).

**Anticipated Outcome:** Obtain Regional Administrator's approval to send the MOAs to the NC Department of Environmental Quality and the Western NC Regional Air Quality Agency for signature.

**Meeting Participants / Roles**

<b>Participant</b>	<b>Role</b>	<b>Office</b>
Beverly Banister	Recommender	APTMD/IO
Carol Kemker	Recommender	APTMD/IO
Ken Mitchell	CAA Section 129 Team Leader	APTMD/IO
Beverly Spagg	Section 129 Program Branch Chief	APTMD / AETB
Todd Russo	Section 129 Program Section Chief	APTMD / AETB / SAETS
Jason Dressler	Briefing Presenter/Section 129 Team	APTMD / AETB / SAETS
Mark Bloeth	Briefing Note Taker/Section 129 Team	APTMD / AETB / SAETS
Valeria Nowell	Section 129 Legal Supervisor	ORC
Gretchen Frizzell	Legal Counsel / Section 129 Program	ORC
Brandon Cobb	Legal Counsel / Section 129 Program	ORC
Carrie Griffith	Environmental Engineer / Section 129 Team	APTMD / AETB / SAETS
Megan Arias	Environmental Engineer / Section 129 Team	APTMD / AETB / SAETS

**Enclosed:**

Briefing Paper  
Briefing Powerpoint  
Draft MOAs (2)

**Regional Administrator Briefing Sheet**  
**SSI Federal Plan Delegation to NC**  
**December 12, 2017**

**Requested Action:** Concurrence to move forward with Memoranda of Agreement (MOAs) between EPA Region 4 and the NC Department of Environmental Quality (NCDEQ) and the Western NC Regional Air Quality Agency (WNCRAQA) delegating implementation and enforcement of the Federal Plan for Sewage Sludge Incinerators (SSIs) from EPA to these entities.

**Background:**

- Pursuant to Sections 111(d) and 129(b) of the Clean Air Act, EPA is required to promulgate Emission Guidelines (EG) for existing solid waste incineration units. These EGs are implemented once EPA approves a state plan developed by a state in response to the EGs or when EPA delegates authority to a state or local agency to implement the EPA's federal plan. EPA implements the federal plan in the absence of a state plan or delegation of the federal plan. (Unlike certain NAAQS FIPs, Section 129 Federal Plans have no associated sanctions.)
- EPA encourages states and local agencies to request delegation of the federal plan in the absence of an approved state plan. States may subsequently replace a delegated federal plan with an approved state plan.
- Currently, EPA is the implementing authority for the SSI federal plan in NC (the entire state) since the State has not submitted a plan for EPA review.

**Delegation Status:**

- Both NCDEQ and WNCRAQA have submitted the required documentation to request delegation of the SSI federal plan for SSI units located in their respective jurisdictions. There is no required timeframe for submittal of a delegation request or for EPA to act on it.

**Next Steps:**

- A signed MOA between EPA and NCDEQ and between EPA and WNCRAQA will transfer the authority to implement and enforce the federal plan to these entities.
- Subsequent to MOA signature, EPA Region 4 will publish a notice in the Federal Register which incorporates the delegation of authority into 40 C.F.R. 62.

**Future Actions:**

- NCDEQ intends to eventually submit a state plan for EPA approval, but the timing of the state's submittal is uncertain.

**Contacts:** Program Issues -- Todd Russo (x9194); Legal Issues -- Valerie Nowell (x9555)

## MEMORANDUM OF AGREEMENT

Between  
The North Carolina Department of Environmental Quality Division of Air Quality  
and  
The United States Environmental Protection Agency, Region 4

### Sewage Sludge Incinerators Federal Plan Delegation

#### I. GENERAL

- A. This Memorandum of Agreement (hereinafter MOA) defines policies, responsibilities, and procedures pursuant to 40 C.F.R. § 60.5045 and 40 C.F.R. Part 62, Subpart LLL (Federal Plan Requirements for Sewage Sludge Incineration Units), by which the Federal Plan Requirements for Sewage Sludge Incineration Units (Federal Plan) will be administered by both the North Carolina Department of Environmental Quality, Division of Air Quality (NCDAQ) and the U.S. Environmental Protection Agency, Region 4 (EPA). This MOA will be maintained consistent with the Clean Air Act (hereinafter "Act") and its regulations. The provisions of this MOA include the terms, conditions, and the effective date of the delegation of the Federal Plan. This MOA shall serve as the mechanism for the transfer of authority to administer and enforce the Federal Plan to NCDAQ. The delegation of the Federal Plan to NCDAQ shall be in effect until there are no sewage sludge incinerator (SSI) facilities within the jurisdiction of the Federal Plan in North Carolina, the EPA publishes an approval of an applicable State Plan submitted by the state of North Carolina, or the EPA withdraws delegation of the Federal Plan according to the provisions of this MOA, whichever occurs first.
- B. This MOA is entered into between the NCDAQ and the EPA. In a letter dated December 9, 2016, the NCDAQ requested from the EPA delegation of authority for the NCDAQ to implement and enforce the Federal Plan. The geographic area covered by this MOA is the State of North Carolina, except those areas in which a local agency has taken delegation to implement and enforce the Federal Plan. This MOA encompasses responsibilities of all agencies who will administer any part of the Federal Plan covered by this MOA.
- C. This MOA does not limit the EPA's authority to fulfill its oversight and enforcement responsibilities under the Act or contravene any provision of 40 C.F.R. Part 62, Subpart LLL or the EPA's other approvals and/or delegations under the Act.
- D. If the NCDAQ does not properly administer or enforce the Federal Plan, the EPA may revoke all or part of this delegation.
- E. The delegation of the Federal Plan to NCDAQ shall become effective upon authorized signature of both the NCDAQ and the EPA.
- F. This MOA may be modified only after mutual consent of both parties for any purpose. Any revisions or modifications to this MOA must be in writing and must be signed by both the NCDAQ and the EPA.

## **II. Policy Statement**

- A. Each party is responsible for ensuring that the obligations under 40 C.F.R. Part 62, Subpart LLL are met. Both parties agree to maintain a high level of communication, cooperation, and coordination between their respective staffs to assure successful and effective administration of the Federal Plan.
- B. The NCDAQ shall have primary responsibility for:
  - 1. Administering and enforcing the Federal Plan in accordance with 40 C.F.R. Part 62, Subpart LLL, applicable State/local law, objectives of the Act, and this MOA.
  - 2. Making any changes to its administration and enforcement of the delegated Federal Plan necessitated by changes to the regulations comprising the Federal Plan.
  - 3. Sharing information with the EPA regarding administration and enforcement of the program.
- C. The EPA shall have responsibility for:
  - 1. Providing effective oversight of the Federal Plan to ensure consistency with 40 C.F.R. Part 62, Subpart LLL and this MOA, and to promote national consistency in implementation of the Act.
  - 2. Providing ongoing technical and other assistance on SSI matters as requested.
  - 3. Informing the NCDAQ as soon as possible about the EPA's new regulations and any related litigation results or settlements, new Federal standards, implementation and enforcement information and related Federal policies, the effect of these new requirements, and the action needed by the NCDAQ.
  - 4. Informing the NCDAQ as soon as possible about the EPA's decision to revoke any or all of the authority granted to the NCDAQ for delegation purposes.

## **III. Delegation of Authorities**

- A. By means of this MOA, the EPA delegates to the NCDAQ the authority to implement and enforce the Federal Plan, with the exception of the seven authorities below which, pursuant to 40 C.F.R. § 62.16050, are not delegated to state, local, or tribal agencies. The EPA also retains authority to implement and enforce the Federal Plan.
- B. The following authorities are retained by the EPA pursuant to 40 C.F.R. § 62.16050(a)-(g):
  - 1. Approval of alternatives to the emission limits and standards in Tables 2 and 3 of the Federal Plan and operating limits established under 40 C.F.R. § 62.15965 or § 62.15985.
  - 2. Approval of major alternatives to test methods.
  - 3. Approval of major alternatives to monitoring.

4. Approval of major alternatives to recordkeeping and reporting.
5. The requirements in 40 C.F.R. § 62.15965.
6. The requirements of 40 C.F.R. § 62.15945(b)(2).
7. Performance test and data reduction waivers under 40 C.F.R. § 60.8(b).

#### IV. Program Administration and Enforcement

##### A. The NCDAQ agrees to do the following:

1. Enforce the Federal Plan in accordance with the provisions of 40 C.F.R. Part 62, Subpart LLL.
2. Take actions to ensure affected facilities comply with the "operator training requirements" of the Federal Plan, 40 C.F.R. §§ 62.15920 through 62.15950.
3. Take actions to ensure facility compliance with the establishment of operating parameters for SSI units as stipulated in Table 4 of the Federal Plan.
4. Take actions to ensure facility compliance with the reporting requirements for SSI units as stipulated in Table 6 of the Federal Plan.
5. Take actions to ensure final compliance with the compliance schedule of facilities as stipulated in Table 1 and 40 C.F.R. § 62.16025(b) of the Federal Plan.
6. Administer and oversee compliance reporting and recordkeeping requirements.
7. Administer and oversee performance testing and monitoring requirements.
8. Inspect all Sewage Sludge Incinerators in accordance with the current work plan developed pursuant to the Clean Air Act Stationary Source Compliance Monitoring Strategy (CMS), issued October 4, 2016, or any subsequent revisions, and report the minimum data requirements to the EPA via the Integrated Compliance Information System for air (ICIS-AIR) with a special emphasis on updating the facility compliance status.
9. Perform follow-up inspections or review of facility records to insure correction of violations discovered during routine inspections.
10. Address violations that meet the definition of "High Priority Violations," (HPV) in accordance with the EPA's Enforcement Response Policy identified in the "Timely and Appropriate Enforcement Response to High Priority Violations – Revised 2014," issued August 25, 2014, or any subsequent revisions.
11. Address and report violations in ICIS-AIR consistent with the Guidance on Federally-Reportable Violations (FRV) for Clean Air Act Stationary Sources, issued, September 23, 2014, or any subsequent revisions.
12. Submit reports to the EPA containing the information described in 40 C.F.R. §§ 60.25(e) and (f) on progress in Federal Plan enforcement on an annual basis commencing with the first full report period after delegation of the Federal Plan.

13. Notify the EPA when the NCDAQ proposes to transfer all or part of the delegation to any other state and/or local agency and identify a new division of responsibilities among the agencies involved, with such transfer occurring only upon the EPA's approval.
14. If submitting information to the EPA that was obtained under a claim of confidentiality, submit that claim to the EPA when providing that information. Any information obtained from the NCDAQ and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 C.F.R. Part 2.

B. The EPA agrees to do the following:

1. Expeditiously review and appropriately respond to all information submitted by the NCDAQ.
2. Publish an approval notice in the Federal Register to incorporate the delegation of authority in 40 C.F.R. Part 62, Subpart II.
3. Provide technical support and assistance, and training opportunities for interpretation of national regulations.
4. Make reasonable efforts to communicate to the NCDAQ when additional legal, technical, and financial resources may be necessary to implement new Clean Air Act Section 111(d) requirements as they become applicable.
5. Cooperate with the NCDAQ by allowing appropriate flexibility when determining the most effective and expeditious means of implementing the EPA's policy and guidance.

C. Both the EPA and the NCDAQ agree that:

1. The EPA will assess the NCDAQ's administration of the Federal Plan on a continuing basis for consistency with 40 C.F.R. Part 62, Subpart LLL, Title V of the Act, New Source Review under the Act, New Source Performance Standards under the Act, and all other requirements of the Act. This assessment will be accomplished by the EPA review of information submitted by the NCDAQ, permit overview, and compliance and enforcement overview.
  - a. On a continuing basis, the EPA will consider written comments that are received from regulated persons, the public, and Federal, State, and local agencies in assessing the NCDAQ delegation of the Federal Plan. Copies of any comments received from such sources will be provided to the NCDAQ within ten (10) working days of receipt.
  - b. The EPA may review the NCDAQ program to implement and enforce the Federal Plan by examining relevant files and documents at the NCDAQ offices. Program reviews will be conducted on an as needed basis and the EPA will give 30 calendar days' notice to the NCDAQ prior to initiating the review.
  - c. If the EPA determines that the NCDAQ is not adequately administering or enforcing the Federal Plan, the EPA will notify the NCDAQ of the

determination as soon as possible and provide the reasons for the determination; the NCDAQ and the EPA will then determine the process and time frame for correcting the deficiencies in an expeditious manner.

- d. The NCDAQ agrees to allow the EPA access to all files and other requested information deemed necessary by the EPA to ensure management of the delegated Federal Plan is consistent with the EPA's policies, subject to the confidentiality provisions of this MOA.

## V. Reporting and Transmittal of Information

- A. The NCDAQ agrees to submit to the EPA the following information on the affected SSI facilities:

<u>Description</u>	<u>Frequency</u>
Copies of all air related permits for affected facilities.	Upon the EPA's request.
Emission reports submitted pursuant to 15A NCAC 02Q .0207.	Annually to the EPA's Emissions Inventory System pursuant to the EPA's Emissions Reporting Rule. <i>See</i> 80 FR 8787 (February 19, 2015). Upon request, individual facility files will be submitted to Region 4.
All facility full compliance evaluations.	Ongoing basis in ICIS-AIR as established under the current Information Collection Request (ICR) and any subsequent revisions. <sup>1</sup>
All legal documents related to enforcement actions.	Ongoing basis in ICIS-AIR as established under the current ICR and any subsequent revisions.
NCDAQ review of stack tests.	All reviews of stack test will be reported to the EPA via ICIS-AIR.
Copies of annual compliance certifications and results of the NCDAQ review of these certificates.	Upon the EPA's request.
Any information obtained or used in the administration of the Federal Plan.	Upon the EPA's request.
Summary report on progress in plan enforcement. Specifically, submit reports to the EPA containing the information described in 40 C.F.R. §§ 60.25(e) and (f) on progress in Federal Plan enforcement on an annual basis commencing with the first full report period after delegation of the Federal Plan.	Annually (calendar year) basis to the EPA, commencing with the first full report period after delegation of the Federal Plan as described in 40 C.F.R. §§ 60.25(e) and (f). Reports shall be submitted to the Region 4 Air Enforcement and Toxics Branch Chief.

<sup>1</sup> EPA's current ICR, titled "Air Stationary Source Compliance and Enforcement Information Reporting," was approved by the Office of Management and Budget on January 31, 2016. This ICR may be found at: <https://www.regulations.gov/document?D=EPA-HQ-OECA-2014-0523-0014>.

- B. The EPA agrees to submit the following information on the affected SSI facilities to the NCDAQ:

<u>Description</u>	<u>Frequency</u>
Copies of any transmittal letters for Section 113 or 114 actions by the EPA, subject to the terms of 40 C.F.R. Part 2.	Within 5 working days of transmittal.
Any other relevant information, as requested by the NCDAQ, needed to implement the delegated Federal Plan, subject to the terms of 40 C.F.R. Part 2.	Upon the NCDAQ's request.

**VI. Signatures**

For the United States,

United States Environmental Protection Agency, Region 4

By: \_\_\_\_\_  
Onis "Trey" Glenn III  
Region 4 Administrator

Date: \_\_\_\_\_

For the North Carolina Department of Environmental Quality Division of Air Quality

By: \_\_\_\_\_  
Michael Abraczinskas  
Director

Date: \_\_\_\_\_

# December 18, 2017 - December 24, 2017

December 2017						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

January 2018						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

## Monday, December 18

- 11:00am - 11:30am Grenada, Mississippi Proposed Listing for January 16, 2018 (call in # added) (RA's Conference Room) - Ashbee, Blake
- 1:30pm - 2:30pm RCRD Staff Meeting (10B (10T65)) - Ricks-Sinquefield, Debra ☉
- 3:30pm - 4:00pm call Karmel Ferabee

## Tuesday, December 19

- 9:30am - 10:00am Information Meeting - Blake Ashbee/Mike Burns (Blake's Office) - Burns, Michael
- 11:00am - 12:00pm Correspondence Discussion (Blake's Office) - Ashbee, Blake
- 2:00pm - 3:00pm Ethics Briefing (Regional Counsel's Small Conference Room) - Palmer, Leif

## Wednesday, December 20

- 11:00am - 11:30am (Briefing Notes Added) Informational Meeting - Update on the Oil and Gas Industry progress (RA Conference Room) - Ashbee, Blake
- 1:00pm - 1:30pm Outlook Issues w/the Help Desk (Blake's Office) - Ashbee, Blake

## Thursday, December 21

- 10:00am - 10:45am Discussion: Proposed Agency Response to Title V Petitions for TVA - Gallatin Fossil Plant ( RA's Conference Room (call in # 404-562-9999 code: (b)(6) Ashbee, Blake

## Friday, December 22

- 9:00am - Peopleplus approval day ☉

## Saturday, December 23

## Sunday, December 24

**Draft, Internal, Deliberative – Exemption 5 withheld**

**Gallatin Title V Petitions**

**RA Briefing**

**December 21, 2017**

# Official Meeting/Briefing Request for RA or DRA

Has your Division Director been briefed on this subject, and is he/she aware of your request to set up this meeting? Yes

**Date of Request:** December 15, 2017

**Requestor:** Beverly Banister  
**Phone No.:** x29326

**Name of Meeting:** Discussion of Proposed Agency Response (Order) to Title V Petitions for TVA – Gallatin Fossil Plant

**Purpose of Meeting:** To present the Agency's proposed response to two (2) title V petitions regarding TVA – Gallatin to the Regional Administrator with the goal of obtaining concurrence.

Is the Meeting Date Sensitive? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Deadline Date: January 8, 2018 (for mgmt. review)	
Meeting Date/Time Preference #1	December 21, 2017	10-11:00 a.m.
Meeting Date/Time Preference #2	December 21, 2017	11-12:00 p.m.
Meeting Date/Time Preference #3	December 21, 2017	1-2:00 p.m.

**Duration of Meeting:** 1 hour  
(for substantive meetings, schedule at least 1 hour)

**Background:** Pursuant to an order issued by the D.C. Circuit Court on November 17, 2017, the EPA Administrator must respond to the Petitioner (Sierra Club) by January 31, 2018. Petitioner has submitted two (2) title V petitions to the Agency regarding the TVA – Gallatin facility (located in Sumner County, Tennessee): the first on August 8, 2016, and the second on November 20, 2017. Since both petitions raise substantially similar issues, the Agency decided it was best to address both petitions in one Order rather than two separate ones.

**Expectations from Meeting:** Obtain the Regional Administrator's concurrence on the proposed Order (which fully denies both petitions) so that it may be expedited to OAR for signature by the Administrator.

<b>No. of Participants:</b> 11	<b>Names of Required Invitees:</b> Blake Ashbee Beverly Banister Carol Kemker Scott Davis Heather Ceron Eva Land Art Hofmeister Terry Johnson Bonnie Sawyer Nancy Tommelleo Valerie Nowell	<b>Meeting Note-Taker</b> Eva Land
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**Requested Meeting Location:** Regional Administrator's Conference Room

Will there be any type of computer presentation? Yes ☐ No ☒

**EPA Only – Do Not Cite, Quote or Release – Deliberative – Exemption 5 withheld**

**Meeting Notes for Regional Administrator (RA) Briefing on Calls Held with the State Oil and Gas Boards**

**EPA Only – Do Not Cite, Quote or Release – Deliberative – Exemption 5 withheld**

**Meeting Notes for Regional Administrator (RA) Briefing on Calls Held with the State Air Directors**

# December 25, 2017 - December 31, 2017

December 2017						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
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17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

January 2018						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

**Monday, December 25**

**Tuesday, December 26**

■ **1:30pm - 2:30pm RCRD Staff Meeting** (10B (10T65)) -  
Ricks-Sinquefield, Debra ☺

**Wednesday, December 27**

**Thursday, December 28**

■ **9:00am - 11:00am Deputy Team Meeting** (To Be Determined) -  
Mundrick, Doug ☺

■ **1:00pm - 1:30pm Additional Information re: Mobile App**  
Conference Call (Information only) - Hudson, Wanda

■ **1:00pm - 1:30pm Check in with Alan and Carol** (Call in number  
(404-562-9997; (b)(6)) - Ashbee, Blake

■ **1:00pm - 1:30pm Mobile App Request** (Confrence Call --- 1(855)  
564-1700, Conference Ext: 110 4379; Participant Code: (b)(6) Fine,  
Steven

■ **1:30pm - 2:30pm URGENT - Call with front office re. Grenada FAQs**  
**TODAY** ((866) 299-3188 passcode (b)(6) Marraccini,  
Davina

**Friday, December 29**

**Saturday, December 30**

**Sunday, December 31**

### **Grenada Removal Action Q&A**

1. Why is EPA taking a removal action at this Site? Why now? What is a time-critical removal action?
2. When did EPA become aware of the high concentrations of TCE inside the manufacturing facility?
3. What are the risks to workers?
4. What actions did EPA take to address the high concentrations inside the facility?
5. What measures did EPA take once the pilot treatment system was stopped?
6. Why has it taken so long for something to be done to address the situation?
7. How quickly will the treatment system be brought back online?
8. Will EPA have to submit a permit to MDEQ to operate the treatment system?